



# भारत का राजपत्र The Gazette of India

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सं. 53] नई दिल्ली, दिसम्बर 29, 2019—जनवरी 4, 2020, शनिवार/पौष 8—पौष 14, 1941  
No. 53] NEW DELHI, DECEMBER 29, 2019—JANUARY 4, 2020, SATURDAY/PAUSHA 8—PAUSHA —14, 1941

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

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भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

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भारत सरकार के मंत्रालयों ( रक्षा मंत्रालय को छोड़कर ) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

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सीमा शुल्क आयुक्त का कार्यालय

मंगलूर, 23 अगस्त, 2019

सं. 01/2019

विषय : हासन आई.सी.डी - सीमा शुल्क क्षेत्र के रूप में अधिसूचित क्षेत्र से संबंधित  
अधिसूचना रद्द करने के संबंध में

का.आ. 2218.—आयुक्त, सीमा शुल्क, केंद्रीय उत्पाद शुल्क और सेवा कर, मैसूर, ने दिनांक 19.03.2009 की अधिसूचना, सं 1/2009 सी.शु (एन.टी.) द्वारा सीमा शुल्क अधिनियम, 1962, के नियम 8 के अधीन कर्नाटक राज्य के हासन जिला, हासन तालुक के दोडुबसवनहल्ली, गाँव के सर्वे सं. 112-पी, 113-पी एवं 114-पी में स्थित हासन ग्रोथ सेंटर, शांतीग्राम के पूरे 40509 वर्ग मीटर परिक्षेत्र को इनलैंड कंटेनर डिपो, हासन में आयातित वस्तुओं के उतारने और निर्यात हेतु

वस्तुओं के लादान के उद्देश्य से सीमा शुल्क परिक्षेत्र के रूप में अधिसूचित किया था। अधिसूचना सं. 82/2017 सी. शु. (एन.टी.) दिनांक 24.08.2017, यथासंशोधित, के आलोक में कर्नाटक राज्य के हासन जिला के अधीन क्षेत्र सीमा शुल्क आयुक्तालय, मंगलूर के क्षेत्राधीन आ गये हैं।

सहायक आयुक्त, सीमा शुल्क, ई.पी. सेल, हासन ने अब यह रिपोर्ट किया है कि उक्त इनलैंड कंटेनर डिपो, हासन, कार्यरत नहीं है और कई वर्षों से कार्गो के आयात या निर्यात का कार्य नहीं हो रहा है। उपरोक्त को ध्यान में रखते हुए सीमा शुल्क अधिनियम 1962 के नियम 8 के तहत जारी दिनांक 19.03.2009, की अधिसूचना सं 1/2009 को रद्द किया जाता है जिसके फलस्वरूप हासन जिला, हासन तालुक के दोडुबसवनहल्ली, गाँव के सर्वे सं. 112-पी, 113-पी एवं 114-पी के पूरे 40509 वर्ग मीटर परिक्षेत्र आयातित वस्तुओं के उतारने एवं निर्यात हेतु वस्तुओं के लादान के लिए सीमा शुल्क परिक्षेत्र नहीं है।

[फा. सं. सी. सं./एस-12/20/2018 सीएच]

बसवराज नलेगावे, आयुक्त

### OFFICE OF THE COMMISSIONER OF CUSTOMS

Mangaluru, the 23rd August, 2019

No. 01 /2019

**Subject: Hassan ICD - Denotification of specified area notified as Customs Area - reg.**

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**S.O. 2218.**—The Commissioner of Central Excise, Customs & Service Tax, Mysore vide Notification No. 1/2009–Cus (N.T.) dated 19.03.2009 had notified under Section 8 of the Customs Act, 1962, the entire area of 40509 Sqm., in Plot No.1-B3 and 1-C1, Hassan Growth Centre, Shanthigrama, Survey No.112-P, 113-P and 114-P, Doddabasavanahalli Village, Hassan Taluk, Hassan District, Karnataka State as 'Customs Area' in respect of Inland Container Depot at Hassan for the purpose of unloading of import goods and loading of export goods. Further, in terms of Notification No. 82/2017-Cus (N.T.) dated 24.08.2017, as amended, on the jurisdiction of various Customs Commissionerates, the areas in the district of Hassan, in the State of Karnataka came under the jurisdiction of Commissioner of Customs, Mangalore.

It has now been reported by the Assistant Commissioner of Customs, E.P. Cell, Hassan that Inland Container Depot, Hassan is non functional and there are no activities of import or export of cargo since many years. In view of the above, the Notification No. 1/2009–Cus (N.T.) dated 19.03.2009 issued in terms of Section 8 of the Customs Act, 1962, is hereby rescinded and in effect, the entire area of 40509 Sqm., in Plot No.1-B3 and 1-C1, Hassan Growth Centre, Shanthigrama, Survey No.112-P, 113-P and 114-P, Doddabasavanahalli Village, Hassan Taluk, Hassan District, Karnataka State ceases to be 'Customs Area' for the purpose of unloading of import goods and loading of export goods.

[F. No. C. No. S-12/20/2018 CH]

BASWARAJ NALEGAVE, Commissioner

मंगलूर, 3 सितम्बर, 2019

सं. 02 /2019

**विषय: सी.शु. – हासन इनलैंड कंटेनर डिपो में सीमा शुल्क कार्गो सेवा प्रदाता की नियुक्ति को रद्द करने के संबंध में**

**का. आ. 2219.**—आयुक्त, सीमा शुल्क, केंद्रीय उत्पाद और सेवा कर, मैसूर, ने सीमा शुल्क क्षेत्रीय विनियमन 2009, विनियमन 10 के साथ पठित सीमा शुल्क अधिनियम, 1962 की धारा 45(1) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य के हासन जिला, दोडुबसवनहल्ली गाँव, हासन तालुक के प्लॉट सं. 1-बी3 और 1-सी1, हासन उद्योग केंद्र, औद्योगिक क्षेत्र, शांतीग्राम, सर्वे सं. 112-पी, 113-पी, एवं 114-पी, में स्थित इनलैंड कंटेनर डिपो में अवतरित माल को सीमा शुल्क अधिनियम, 1962 के प्रावधानों के अधीन घरेलू उपभोग्य या भंडारण या पोत भरण के लिए निकासी होने तक और निर्यात करने के उद्देश्य से रखे गए माल को निर्यात करने तक, मेसर्स विक्रम लाजिस्टिक्स एवं मेरीटाईम सर्वीस(प्र)लिमिटेड,

तीसरा तल, चेंबर@ मंत्री, सं 10, रिचमंड रोड, बेंगलूर 560 025 (इसके उपरांत मेसर्स.वीएलएमएस के नाम से विनिर्दिष्ट) को अभिरक्षक और/या इनलैंड कंटेनर डिपो में अवतरित आयातित माल के सीमा शुल्क वस्तु सेवा प्रदाता के रूप में नियुक्त किया था इसके उपरांत दिनांक 18.08.2011 की अधिसूचना सं 1/2011-सी.शु.(एन.टी.) द्वारा इसकी नियुक्ति का नवीकरण अगले दो वर्ष के लिए किया था। अधिसूचना सं. 82/2017 सी. शु. (एन.टी.) दिनांक 24.08.2017, यथासंशोधित, के आलोक में कर्नाटक राज्य के हासन जिला के अधीन क्षेत्र सीमा शुल्क आयुक्तालय, मंगलूर के क्षेत्राधीन आ गये हैं।

सहायक आयुक्त, सीमा शुल्क, ई.पी. सेल, हासन ने अब यह रिपोर्ट किया है कि उक्त इनलैंड कंटेनर डिपो, हासन, कार्यरत नहीं है और कई वर्षों से कार्गो के आयात या निर्यात का कार्य नहीं हो रहा है। उपरोक्त को ध्यान में रखते हुए दिनांक 19.05.2009, की अधिसूचना सं. 4/2009-सी.शु.(एन.टी.) एवं दिनांक 18.08.2011 की अधिसूचना सं. 01/2011-सी.शु.(टी.एन.) को रद्द किया जाता है उसके फलस्वरूप मेसर्स विक्रम लाजिस्टिक्स एवं मेरीटाईम सर्विसस तीसरा तल, चेंबर@ मंत्री, सं 10, रिचमंड रोड, बेंगलूर 560 025 (प्र)लिमिटेड (जो दिनांक 12.09.2014 से मेसर्स डिस्ट्रीब्यूशन लाजिस्टिक्स इनफ्रास्ट्रक्चर प्राईवेट लिमिटेड के नाम से जाना जाता है) को कर्नाटक राज्य के हासन जिला, हासन तालुक के दोडुबसवनहल्ली गाँव के प्लॉट सं. 1-बी3 और 1-सी1, हासन ग्रोथ केंद्र, शांतीग्राम, सर्वे सं 112-पी, 113-पी, एवं 114-पी, में स्थित इनलैंड कंटेनर डिपो में, अभिरक्षक और/या आयातित माल एवं निर्यात करने के लिए रखे सामान के संरक्षक एवं सेवा प्रदाता के रूप में उसकी नियुक्ति को रद्द किया जाता है।

[फा. सं. सी.सं./एस-12/20/2018 सीएच]

बसवराज नलेगावे, आयुक्त

Mangaluru, the 3rd September, 2019

No. 02 /2019

**Subject: – Customs- Rescinding of Notification of Appointment of Customs Cargo Services Provider at Inland Container Depot, Hassan - reg.**

**S.O. 2219.**—The Commissioner of Customs, Central Excise & Service Tax, Mysore vide Notification No. 4/2009–Cus (N.T.) dated 19.05.2009 had appointed M/s Vikram Logistic and Maritime Services (P) Ltd., 3<sup>rd</sup> Floor, Chambers @ Mantri No.10, Richmond Road, Bangalore- 560 025 to be Custodian and/or the Customs Cargo Services provider of the imported goods landed and for the goods intended for export at Inland Container Depot at Plot No.1-B3 and 1-C1, Hassan Growth Centre, Shanthigrama, Survey No.112-P, 113-P and 114-P, Doddabasavanahalli Village, Hassan Taluk, Hassan district, Karnataka State, under Section 45 of the Customs Act, 1962 read with Regulation 10 of Handling of Cargo in Customs Areas Regulations, 2009. The Commissioner of Central Excise, Customs & Service Tax, Mysore vide Notification No. 01/2011–Cus (N.T.) dated 18.08.2011 renewed the appointment of M/s Vikram Logistic and Maritime Services (P) Ltd., 3<sup>rd</sup> Floor, Chambers @ Mantri No.10, Richmond Road, Bangalore- 560 025 as the Custodian and/or the Customs Cargo Services provider of the imported goods landed at Inland Container Depot, Hassan for a further period of two years. Further, in terms of Notification No. 82/2017-Cus (N.T.) dated 24.08.2017, as amended, on the jurisdiction of various Customs Commissionerates, the areas in the district of Hassan, in the State of Karnataka came under the jurisdiction of Commissioner of Customs, Mangalore.

It has now been reported by the Assistant Commissioner of Customs, E.P. Cell, Hassan that the said Inland Container Depot, Hassan is non functional and there are no activities of import or export of cargo since many years. In view of the above, the Notification No. 4/2009–Cus (N.T.) dated 19.05.2009 and Notification No. 01/2011–Cus (N.T.) dated 18.08.2011 are hereby rescinded and in effect, the appointment of M/s Vikram Logistic and Maritime Services (P) Ltd. (known by the name M/s Distribution Logistics Infrastructure Private Ltd. with effect from 12.09.2014), 3<sup>rd</sup> Floor, Chambers @ Mantri No.10, Richmond Road, Bangalore- 560 025 as the Custodian and/or the Customs Cargo Services provider of the imported goods landed and for the goods intended for export at Inland Container Depot at Plot No.1-B3 and 1-C1, Hassan Growth Centre, Shanthigrama, Survey No.112-P, 113-P and 114-P, Doddabasavanahalli Village, Hassan Taluk, Hassan district, Karnataka State stands cancelled.

[F. No. C. No. S-12/20/2018 CH]

BASWARAJ NALEGAVE, Commissioner

**वित्त मंत्रालय**  
**(वित्तीय सेवाएं विभाग)**

नई दिल्ली, 20 दिसम्बर, 2019

**का.आ. 2220.**—इस विभाग की दिनांक 13.12.2013 की अधिसूचना संख्या 7/4/2013-बीओ-I तथा दिनांक 20.12.2018 की अधिसूचना संख्या 7/7/2018-एसी के संदर्भ में केन्द्रीय सरकार, एतद्वारा, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के अध्यक्ष के रूप में श्री हर्ष कुमार भनवाला (जन्म तिथि: 27.11.1961) की कार्यावधि को दिनांक 18.12.2019 से छः माह की अवधि के लिए, या नए अध्यक्ष की नियुक्ति तक, या अगले आदेशों तक, जो भी पहले हो, बढ़ाती है।

[फा. सं. 7/7/2018-एसी]

ए. के. दास, उप सचिव

**MINISTRY OF FINANCE**  
**(Department of Financial Services)**

New Delhi, the 20th December, 2019

**S.O. 2220.**—With reference to this Department's Notifications No. 7/4/2013-BO-I dated 13.12.2013 and No. 7/7/2018-AC dated 20.12.2018, the Central Government hereby extends the tenure of Shri. Harsh Kumar Bhanwala (DoB: 27.11.1961) as Chairman, National Bank for Agriculture and Rural Development (NABARD), for a period of six months with effect from 18.12.2019, or till appointment of a new Chairman, or until further orders, whichever is the earliest.

[F. No. 7/7/2018-AC]

A. K. DAS, Dy. Secy.

नई दिल्ली, 27 दिसम्बर, 2019

**का.आ. 2221.**—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री गिरीश चन्द्र मुर्मु, भूतपूर्व सचिव (व्यय) के स्थान पर श्री इंजेटी श्रीनिवास, सचिव, कारपोरेट कार्य मंत्रालय को तत्काल प्रभाव से और अगले आदेशों तक, उक्त निगम के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 14/3/2003-बीमा-I]

उमेश चन्द्र, अवर सचिव

New Delhi, the 27th December, 2019

**S. O. 2221.**—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby appoints Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs, as member of the said Corporation vice Sh. Girish Chandra Murmu, erstwhile Secretary (Expenditure) with immediate effect and until further orders.

[F. No. 14/3/2003-Ins.-I]

UMESH CHANDRA, Under Secy.

**विदेश मंत्रालय**

नई दिल्ली, 13 दिसम्बर, 2019

**का.आ. 2222.**—केंद्रीय सरकार (संघ के शासकीय प्रयोजनों के लिए) राजभाषा नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, विदेश मंत्रालय के क्षेत्रीय पासपोर्ट कार्यालय, एस.सी.ओ. नं. 42-51, पॉकेट-1, बस स्टैंड के पास, जालंधर-144001 (पंजाब) को जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[फा. सं. क्यू/हिंदी/621/21/2018]

सजीव बाबु कुरूप, संयुक्त सचिव

**MINISTRY OF EXTERNAL AFFAIRS**

New Delhi, the 13th December, 2019

**S. O. 2222.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the official purpose of the Union) Rules, 1976, the Central Government, hereby notifies the Regional Passport Office, SCO No. 42-51, Pocket-1, Near Bus Stand, Jalandhar-144001(Punjab) of the Ministry of External Affairs, more than 80% staff whereof have acquired working knowledge of Hindi.

[F. No. Q/Hindi/621/21/2018]

SAJEEV BABU KURUP, Jt. Secy.

**कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय**

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 27 दिसम्बर, 2019

**का.आ. 2223.**—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम संख्या 5) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तमिलनाडू सरकार, गृह (पीओएल.VII) विभाग की अधिसूचना सं. जी.ओ. (एमएस) सं. 702 दिनांक 14 दिसंबर 2019 के माध्यम से प्राप्त सहमति सहमति से, ग्रेटर चेन्नई, केंद्रीय अपराध शाखा-I, में वर्तमान में दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 174 के तहत दर्ज अपराध सं 327 सन् 2019, सुश्री फातिमा लाथीफ पुत्री अब्दुल लाथीफ की मृत्यु से जुड़े अपराध(धों) के अन्वेषण करने के लिए तथा इससे संबद्ध या उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी एक या अधिक अपराध(धों) में किए गए किन्हीं प्रयासों, दुष्प्रेरणाओं और षड्यंत्रों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त तमिलनाडू राज्य में करती है।

[फा. सं. 228/44/2019-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**

(Department of Personnel and Training)

New Delhi, the 27th December, 2019

**S.O. 2223.**—In exercise of the powers conferred by sub section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Tamil Nadu, Home(POL.VII) Department, accorded vide G.O.(Ms) No.702 dated 14<sup>th</sup>December, 2019, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in whole State of Tamil Nadu for investigation of the offence(s) relating to the case registered in Greater Chennai, Central Crime Branch-I, Crime No. 327 of 2019, presently registered under section 174 of the Code of Criminal Procedure, 1973 (Act No. 2 of

1974), pertaining to the death of Ms. Fathima Lathief D/o Abdul Lathief and any attempt, abetment, and conspiracy in relation to or in connection with one or more such offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/44/2019-AVD-II]

S. P. R. TRIPATHI, Under Secy.

### राष्ट्रीय आपदा प्रबंधन प्राधिकरण

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2224.**—आपदा प्रबंधन अधिनियम, 2005 (2005 का 53) की धारा 7 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना सं. 2801 दिनांक 29.11.2016 के द्वारा गठित 15 सदस्यों वाली राष्ट्रीय आपदा प्रबंधन प्राधिकरण (एन.डी.एम.ए.) की सलाहकार समिति की अवधि को दिनांक 27.11.2020 तक बढ़ाया जाता है।

2. सलाहकार समिति के सदस्यों को ऐसे यात्रा भत्ते, कमरे का किराया, दैनिक भत्ते तथा वाहन भत्ते का भुगतान किया जाएगा जो अनुपूरक नियम 190 के परिशिष्ट-2 में यथा उल्लिखित उच्चाधिकार प्राप्त समिति के एक सदस्य को अनुमेय हैं।

[फा. सं. 8-1/2018-समन्वय/एनडीएमए]

जी. वी. वी. शर्मा, सदस्य सचिव

### NATIONAL DISASTER MANAGEMENT AUTHORITY

New Delhi, the 26th December, 2019

**S.O. 2224.**—In exercise of the powers conferred by Sub-section (1) of Section 7 of the Disaster Management Act 2005 (53 of 2005), the term of the Advisory Committee of National Disaster Management Authority (NDMA) comprising 15 Members constituted vide notification No.2801 dated 29.11.2016, is extended upto 27.11.2020.

2. The Members of the Advisory Committee shall be paid such travelling allowances, room rent, daily allowances and conveyance allowance, as are admissible to a Member of the High Power Committee as specified in Appendix-2 to Supplementary Rule 190.

[ F. No. 8-1/2018-Cdn/NDMA]

G.V.V. SARMA, Member Secy.

### कोयला मंत्रालय

नई दिल्ली, 1 जनवरी, 2020

**का. आ. 2225.**—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) ( जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है ) की धारा 4 की उपधारा (1) के अधीन भारत सरकार के कोयला मंत्रालय द्वारा जारी की गई अधिसूचना संख्यांक का. आ. 1620, तारीख 29 अगस्त, 2019, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii), तारीख 7 सितम्बर, 2019 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 685.000 हेक्टेयर (लगभग) या 1692.635 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में वर्णित उक्त भूमि के भाग में कोयला अभिप्राप्त है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 685.000 हेक्टेयर (लगभग) या 1692.635 एकड़ (लगभग) माप वाली भूमि में या उस पर के सभी अधिकार का अर्जन करने के अपने आशय की सूचना देती है;

[illegible]

**(ख) वन भूमि:**

क्र.सं.	ग्राम का नाम	ग्राम संख्या/ थाना संख्या	पटवारी/ राजस्व सर्किल का नाम	तहसील	जिला	क्षेत्र हेक्टेयर में (लगभग)	टिप्पणियां
1.	दुरुबागा	70	हेमगिर	हेमगिर	सुन्दरगढ़	29.080	भाग
2.	कातरबागा	69	हेमगिर	हेमगिर	सुन्दरगढ़	24.127	भाग
3.	काथाफली	108	घुमुदासन	हेमगिर	सुन्दरगढ़	18.632	भाग
4.	परमानंदपुर	107	घुमुदासन	हेमगिर	सुन्दरगढ़	30.342	भाग
5.	काहनुपहाड़ आरक्षित वन	--	--	हेमगिर	सुन्दरगढ़	10.517	भाग
6.	हुन्डरखोल आरक्षित वन	--	--	हेमगिर	सुन्दरगढ़	166.068	भाग
कुल: 278.766 हेक्टेयर (लगभग) या 688.831 एकड़ (लगभग)							

(क) कुल राजस्व भूमि: 406.234 हेक्टेयर (लगभग) या 1003.804 एकड़ (लगभग)

(ख) कुल वन भूमि: 278.766 हेक्टेयर (लगभग) या 688.831 एकड़ (लगभग)

(ग) कुल जोड़ (क + ख): 685.000 हेक्टेयर (लगभग) या 1692.635 एकड़ (लगभग)

अर्जित किए जाने वाले राजस्व प्लॉट संख्याओं की सूची:

**1. ग्राम – दुरुबागा :**

1137 (भाग), 1139 (भाग), 1272, 1270 (भाग), 1294/1676, 1294/1680, 1294/1681, 1294/1682, 1294/1683, 1294/1684, 1294, 1138 (भाग), 1269 (भाग), 1140 (भाग), 1294/1685, 1282/2012, 1282/2015, 1282/2017, 1282/2018, 1282/2019, 1282/2020, 1282/2021, 1282/2036, 1282/2036/2082, 1282, 1277, 1278, 1279, 1290, 1280/2/1513 (भाग), 1280/1/1514 (भाग), 1311 (भाग), 2036/2089, 2036/2090; 1313 (भाग), 1134, 1266 (भाग), 1301, 1305, 1307, 1371 (भाग), 1265, 1281, 1292, 1367 (भाग), 1262 (भाग), 1274, 1276, 1297, 1299, 1302, 1303, 1309, 1365, 1368 (भाग)।

**2. ग्राम – कातरबागा :**

39 (भाग), 40 (भाग), 71 (भाग), 76 (भाग), 77 (भाग), 103, 103/592, 104, 105, 105/455, 106, 107, 107/365, 107/431, 107/431/496, 107/432, 107/432/497, 108, 108/461, 109, 109/428, 428/452, 109/459, 111, 111/451, 111/429, 111/430, 112, 112/427, 116, 116/470, 116/471, 116/472, 116/473, 116/474, 116/475, 116/476, 118, 119, 120, 120/518, 120/530, 120/544, 120/552, 120/555, 555/570, 121, 121/443, 122, 123, 124, 124/519, 124/531, 124/545, 125, 126, 127, 128, 128/403, 128/421, 128/422, 128/422/488, 128/423, 128/426, 128/426/440, 129, 129/442, 129/434, 434/441, 130, 130/468, 130/468/580, 130/468/585, 131 (भाग), 132 (भाग), 134 (भाग), 135, 135/575, 135/576,



135/581, 135/582, 135/582/623, 135/583, 136, 136/439, 136/485, 136/486, 137, 137/436, 138, 139, 139/584, 140, 140/469, 141, 141/580, 141/484, 142, 142/596, 596/604, 142/602, 143, 144, 145, 146, 146/465, 146/466, 146/467, 146/487, 147, 147/437, 147/462, 147/463, 147/464, 147/499, 147/500, 150/615, 150/617, 150, 151, 151/454, 151/454/628, 151/458, 152 (भाग), 153 (भाग), 154 (भाग), 163 (भाग), 164 (भाग), 166 (भाग), 252 (भाग), 252/341 (भाग), 253 (भाग), 254, 254/372, 254/372/610, 254/373, 373/618, 254/374, 255, 255/489, 255/490, 255/490/557, 255/444/491, 255/444, 256, 257 (भाग), 258, 259, 260, 261, 262, 263, 265, 266, 266/594, 266/595, 267, 268/375, 269, 270, 271, 271/507, 271/390, 272, 273, 274, 274/438, 276 (भाग), 278 (भाग), 288 (भाग), 289 (भाग), 290 (भाग), 291, 293 (भाग), 294, 294/410, 299, 300, 301, 301/605, 301/606, 301/607, 301/608, 302, 303, 305, 310, 310/502, 311, 311/503, 311/571, 311/572, 311/573, 311/574, 312, 312/479, 312/480, 312/481, 312/482, 312/483, 312/479/578, 312/480/579, 313, 318, 319, 327/377 (भाग), 242; 49 (भाग), 97 (भाग), 98 (भाग), 98/331, 99, 100, 101, 102, 110, 113, 114, 115, 117, 124/329, 148, 149, 264, 268, 275 (भाग), 284 (भाग), 285 (भाग), 296, 297, 304, 306, 308, 309, 314, 315, 316, 320, 272/376, 321, 322, 323, 324, 325, 326, 328।

### 3. ग्राम – काथाफली:

124, 28, 59, 62, 67, 91, 92, 93, 96, 97, 99, 102, 108, 110, 118, 125, 127, 135, 136, 148, 153, 167, 168, 172, 185, 191, 192, 202, 207, 217, 219, 220, 222, 236, 237, 207/340, 93/348, 106/350, 155/361, 193/365, 91/382, 91/383, 91/384, 91/385, 99/386, 99/387, 89, 90, 105, 107, 132, 130, 164, 213 (भाग), 138, 128, 32, 33, 77, 78, 79, 80, 81, 84, 86, 87, 243, 76/347, 111, 13, 47, 49, 179, 101, 208 (भाग), 69, 72, 94, 29/333, 31/337, 183, 180, 181, 182, 186, 203, 184/339, 147/357, 202/367, 244, 214 (भाग), 226/512, 246/513, 247/514, 233/520, 273 (भाग), 143, 19, 20, 21, 22, 120, 140/352, 195, 196 (भाग), 197, 198, 194, 140, 144, 139, 140/353, 205, 206, 131, 395/539, 395/540, 395/541, 395/542, 188/395, 177/1/389, 91/390, 91/391, 93/392, 99/393, 177/402, 177/398, 177/399, 177/400, 177/401, 16, 50, 12/405, 8/407, 10/408, 11/409, 14/410, 9/418, 177/427, 177/419, 177/420, 177/421, 177/422, 177/423, 177/424, 215 (भाग), 216, 177/426, 177/428, 177/429, 177/430, 177/431, 65, 65/543, 543/546, 65/544, 544/547, 65/545/545/548, 103, 106, 109, 114, 115, 126, 152, 184, 221, 223, 223/343, 39, 41, 150, 104, 113, 65/432, 101/433, 103/434, 106/435, 109/436, 114/437, 115/438, 126/439, 52/440, 21/441, 23/442, 42, 39/443, 150/444, 37, 121, 190, 99/394, 37/445, 36, 98, 158, 193, 241, 91/395, 37/446, 190/447, 121/448, 99/449, 127/450, 88, 88/538, 145, 33/451, 34, 176/452, 177/455, 177/456, 177/457, 177/458, 177/459, 177/460, 177/461, 177/462, 177/463, 177/464, 177/465, 177/466, 177/467, 177/468, 177/469, 176/470, 157/473, 35/472, 85, 85/471, 240, 35/474, 32/335, 82, 149, 201, 236/371, 21/475, 475/482, 37/476, 81/477,

86/478, 243/479, 173, 176/480, 76, 76/495, 176/481, 147, 68, 69/483, 73/484, 74, 75, 72/485, 73, 241/486, 241/487, 98/488, 98/489, 98/490, 432/491, 432/492, 65/493, 176/494, 176, 96/496, 237/497, 80/498, 80/499, 96/500, 237/505, 78/506, 19/507, 237/508, 217/509, 19/511, 233/515, 224, 226/521, 226 (भाग), 232, 234/516, 226/522, 231/517, 234, 225, 231, 342/518, 235, 217/342, 64, 230/523, 233 (भाग), 246 (भाग), 247, 28/334, 194/524, 129, 129/525, 141, 244/526, 136/354, 244/528, 354/530, 244/531, 363/533, 244/534, 128/363, 188/395/536, 227, 369; 7, 31, 40, 43, 44, 45, 160, 166, 169, 170, 177, 218, 188/364, 66, 71, 95, 100, 112, 119, 122, 123, 133, 134, 137, 142, 146, 171, 69/346, 120/351, 142/355, 142/356, 8, 9, 10, 11, 12, 14, 15, 25, 26, 29, 32, 35, 38, 48, 52, 53, 54, 56, 61, 70, 83, 116, 117, 154, 157, 159, 161, 162, 163, 174, 200, 204, 276, 184/341, 59/344, 65/345, 97/349, 149/358, 86/359, 87/360, 160/362, 193/366, 202/368, 239/372, 243/373, 1, 4, 6, 23, 30, 46, 51 (भाग), 58, 63, 151, 155, 165, 188 (भाग), 199, 210, 238, 242 (भाग), 245, 277 (भाग), 284 (भाग), 37/338, 5.

#### 4. ग्राम – परमानंदपुर:

74, 90, 113, 115, 117, 149, 150, 167, 173, 175, 189, 192, 201, 205, 211, 214, 215, 216, 221, 224, 225, 226, 232, 248, 249, 250, 254, 255, 258, 259, 262, 263, 264, 265, 266, 273, 59, 61, 63, 66, 69, 70, 75, 76, 89, 91, 96, 141, 207, 18, 19, 29, 31, 157, 157/408, 408/412, 157/409, 17, 20, 21, 24, 25, 26, 30, 12, 16, 22, 23, 27, 32, 80, 118, 137, 138, 140, 170, 171, 133/281, 136/283, 178/297, 109, 116, 121, 122, 123, 124, 130, 217, 219, 46, 50, 51, 62, 85, 88, 95, 99, 100, 102, 103, 160, 162, 163, 165, 206, 209, 267, 137/285, 45/386, 92/388, 94, 97, 154/382, 179/294/298, 179/294/299, 179/294/300, 179/294/301, 179/294/302, 5, 7, 10, 15, 28, 132, 127/304, 146, 131, 143/305, 294/306, 218/307, 218, 297/308, 297/308/377, 90/310, 115/311, 149/313, 173/314, 175/315, 226/316, 229, 230, 231, 239/317, 250/318, 250/319, 259/320, 259/321, 259/322, 264/323, 266/324, 242/293, 211/326, 215/327, 215/328, 216/329, 220, 270, 221/330, 90/332, 115/333, 149/335, 167/336, 173/337, 226/338, 227, 228, 238, 239/339, 250/340, 257, 259/341, 260, 265/342, 266/343, 270/344, 192/346, 193/347, 205/348, 211/349, 214/350, 215/351, 215/352, 216/353, 259/375, 115/355, 173/357, 192/359, 193/360, 239/361, 240, 256, 264/364, 266/365, 215/367, 215/368, 216/369, 225/371, 226/372, 73, 270/373, 117/356, 74/354, 270/374, 133, 74/309, 117/334, 74/331, 170/376, 250/362, 259/363, 211/366, 119, 120, 139, 111, 45, 154/381, 164, 208, 92, 98, 101, 154/383, 137/284, 44, 54, 154/384, 156, 202, 136, 158, 204/389, 268/391, 269, 154, 155, 159, 204/390, 268, 45/387, 47, 87, 93, 107, 110, 154/385, 204, 166/288, 268/392, 70/393, 74/394, 394/411, 152, 152/413, 303/398, 135, 152/397, 131/303, 151/287, 153, 157/399, 311/400,

133/401, 133/402, 86, 117/312, 133/403, 133/404, 133/405, 133/406, 133/407, 221/370/410, 221/370, 182; 161, 178, 179, 180 (भाग), 188, 191, 194, 196, 199, 241, 243, 179/294, 179/296, 84, 169, 172, 174, 195, 198, 200, 203, 210, 222, 242, 278, 215/292, 4, 6, 8, 9, 11, 13, 14, 36, 38, 42, 43, 48, 49, 52, 53, 55, 56, 57, 58, 71, 72, 77, 106, 134, 142, 143, 145, 147, 148, 151, 181 (भाग), 184 (भाग), 185, 186, 187, 190, 197, 212, 213, 223, 235, 236, 237, 246, 247, 251, 252, 253, 261, 271, 272, 274, 20/276, 66/277, 86/279, 89/280, 133/282, 149/286, 173/289, 175/290, 193/291, 1, 33, 125, 128, 129, 127.

अर्जित किए जाने वाले वन के डेस्ट्रल सर्वे के प्लॉट संख्याओं की सूची:

### 1. ग्राम – दुरुबागा :

1267 (भाग), 1372 (भाग), 1132 (भाग), 1245 (भाग), 1263 (भाग), 1264, (भाग), 1271 (भाग), 1273, 1275, 1280 (भाग), 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1291, 1293, 1295, 1296, 1298, 1300, 1304, 1306, 1308, 1310 (भाग), 1364 (भाग), 1366, 1349 (भाग), 1145 (भाग), 1165 (भाग), 1255 (भाग), 1135, 1133 (भाग), 1136, 1308/01, 1308/02.

2. ग्राम – कातरबागा: 38 (भाग), 277 (भाग), 286 (भाग), 292 (भाग), 295 (भाग), 298, 307, 317, 327 (भाग)

3. ग्राम – काथाफली: 2, 3, 55, 60, 239, 17, 18, 24, 27, 57, 156, 175, 178, 187, 189, 37/336.

4. ग्राम परमानंदपुर : 244, 275(भाग), 179/295 (भाग), 2, 3, 34, 35, 37, 39, 40, 41, 60, 64, 65, 67, 68, 78, 79, 81, 82, 83, 104, 105, 108, 112, 114, 126, 144, 166, 168, 176, 177, 183 (भाग), 233, 234, 245 (भाग).

5. हुन्डरखोल आरक्षित वन.

6. कहानुपहाड़ आरक्षित वन.

### सीमा वर्णन:

सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीच्यूट (सीएमपीडीआई) द्वारा तैयार की गई जियोलाॅजिकल रिपोर्ट से वर्ल्ड जियोडेटिक सिस्टम (डब्ल्यूजीएस) 84 डेटम लाइन और यूनिवर्सल ट्रांसवर्स मर्केटर (यूटीएम) प्रोजेक्शन प्रणाली के साथ डीप साइड मनोहरपुर कोयला ब्लॉक की सीमा।

रेखा 1-2 : स्टेशन '1' से प्रारंभ होने वाली सीमा कातरबागा ग्राम में डीप साइड मनोहरपुर कोयला ब्लॉक के उत्तर-पश्चिमी कोने पर स्थित है और पूर्व दिशा की ओर जाती है और कातरबागा और दुरुबागा ग्रामों की सामान्य ग्राम की सीमा को छूती है। फिर सीमा दुरुबागा ग्राम में प्रवेश करती है, दुरुबागा-परमानंदपुर के ग्राम की सड़क से गुजरती है, फिर पूर्व की ओर चलती है और प्लॉट संख्या 1349 दुरुबागा ग्राम की (उत्तरी सीमा) के अंदर स्टेशन '2' के पूर्वोत्तर कोने में मिलती है।

रेखा 2-3 : रेखा स्टेशन '2' से प्रारंभ होती है और दक्षिण दिशा की ओर चलती है और परमानंदपुर ग्राम और कहानुपहाड़ आरक्षित वन की सामान्य सीमा को छूती है। सीमा कहानुपहाड़ आरक्षित वन में प्रवेश करती है और कहानुपहाड़ आरक्षित वन काथाफली ग्राम की सामान्य सीमा को छूती है। फिर सीमा काथाफली ग्राम में प्रवेश करती है और स्टेशन '3' पर मिलती है अर्थात् दक्षिण-पूर्व कोने का स्टेशन, राजस्व प्लॉट संख्या - 277 (पूर्वी सीमा) के अंदर। पूर्वी सीमा 'मनोहरपुर' कोयला ब्लॉक तक सीमित है।

रेखा 3-4 : रेखा स्टेशन '3' से प्रारंभ होती है और पश्चिम दिशा की ओर चलती है, काथाफली ग्राम और हुन्डरखोल आरक्षित वन की सामान्य सीमा को छूती है और स्टेशन '4' के दक्षिण-पश्चिम कोने का स्टेशन (दक्षिणी सीमा) से मिलती है।

रेखा 4-1 : रेखा स्टेशन '4' से प्रारंभ होती है और उत्तर दिशा की ओर चलती है, हुन्डरखोल आरक्षित वन कातरबागा ग्राम की सामान्य सीमा को छूती है, फिर सीमा कातरबागा ग्राम में प्रवेश करती है और स्टेशन से '1' के उत्तर-पूर्व कोने का स्टेशन (पश्चिमी सीमा) को पूरा करती है।

[ फा. सं. 43015/13/2019—एलए एण्ड आईआर ]

राम शिरोमणि सरोज, उप सचिव

### MINISTRY OF COAL

New Delhi, the 1st January, 2020

**S.O. 2225.**—Whereas by the notification of the Government of India in the Ministry Coal number S.O. 1620, dated the 29<sup>th</sup> August, 2019 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 7<sup>th</sup> September, 2019, the Central Government gave notice of its intention to prospect for coal in 685.000 hectares (approximately) or 1692.635 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 685.000 hectares (approximately) or 1692.635 acres (approximately) and all rights in or over the said lands described in the Schedule appended hereto;

**Note 1:** The plan bearing number OCPL/CO/15-CBA, dated the 4<sup>th</sup> November, 2019 of the area covered by this notification may be inspected in the office of the Collector, District - Sundergarh, Odisha or in the office of the Coal Controller, 1, Council House Street, Kolkata 700001, or in the office of the Chief Executive Officer, Odisha Coal and Power Limited, Zone-A, Ground floor, Fortune Towers, Bhubaneswar - 751023, Odisha.

**Note 2:** Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows: -

**“8. Objection to acquisition.**- (1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

**Explanation.**- It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government,

containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act”.

**Note 3 :** The Coal Controller, 1, Council House Street, Kolkata -700001 has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 878, dated the 28<sup>th</sup> May, 2019, published in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 1<sup>st</sup> June, 2019.

### SCHEDULE

Dip Side Manoharpur Coal Block

IB Valley Coalfields

District Sundargarh, State- Odisha

[Plan bearing number OCPL/CO/15-CBA, dated the 4<sup>th</sup> November, 2019 ]

#### ALL RIGHTS:

##### (A) REVENUE LAND:

Sl. No.	Name of Village	Village number/ Thana number	Patwari/ Revenue Circle Name	Tahsil	District	Area in hectares (approximately)	Remarks
1.	Durubaga	70	Hemgir	Hemgir	Sundargarh	12.440	Part
2.	Katarbaga	69	Hemgir	Hemgir	Sundargarh	62.416	Part
3.	Kathafali	108	Ghumudasan	Hemgir	Sundargarh	208.157	Part
4.	Paramanandpur	107	Ghumudasan	Hemgir	Sundargarh	123.221	Part
Total: 406.234 hectares (approximately) or 1003.804 acres(approximately)							

##### (B) FOREST LAND:

Sl. No.	Name of Village	Village number/ Thana number	Patwari/ Revenue Circle Name	Tahsil	District	Area in hectares (approximately)	Remarks
1.	Durubaga	70	Hemgir	Hemgir	Sundargarh	29.080	Part
2.	Katarbaga	69	Hemgir	Hemgir	Sundargarh	24.127	Part
3.	Kathafali	108	Ghumudasan	Hemgir	Sundargarh	18.632	Part
4.	Paramanandpur	107	Ghumudasan	Hemgir	Sundargarh	30.342	Part
5.	Kahnupahad RF	--	--	Hemgir	Sundargarh	10.517	Part
6.	Hundarkhol RF	--	--	Hemgir	Sundargarh	166.068	Part
Total : 278.766 hectares (approximately) or 688.831 acres(approximately)							

#### SUMMARY:

- (A) Total Revenue Land : 406.234 hectares (approximately) or 1003.804 acres (approximately)
- (B) Total Forest Land : 278.766 hectares (approximately) or 688.831 acres (approximately)
- (C) Grand Total (A+B) : 685.000 hectares (approximately) or 1692.635 acres (approximately)

## LIST OF REVENUE PLOT NUMBERS TO BE ACQUIRED:

**1. Village – Durubaga:**

1137 (Part), 1139 (Part), 1272, 1270 (Part), 1294/1676, 1294/1680, 1294/1681, 1294/1682, 1294/1683, 1294/1684, 1294, 1138 (Part), 1269 (Part), 1140 (Part), 1294/1685, 1282/2012, 1282/2015, 1282/2017, 1282/2018, 1282/2019, 1282/2020, 1282/2021, 1282/2036, 1282/2036/2082, 1282, 1277, 1278, 1279, 1290, 1280/2/1513 (Part), 1280/1/1514 (P), 1311 (Part), 2036/2089, 2036/2090; 1313 (Part), 1134, 1266 (Part), 1301, 1305, 1307, 1371 (Part), 1265, 1281, 1292, 1367 (Part), 1262 (Part), 1274, 1276, 1297, 1299, 1302, 1303, 1309, 1365, 1368 (Part).

**2. Village – Katarbaga:**

39 (Part), 40 (Part), 71 (Part), 76 (Part), 77 (Part), 103, 103/592, 104, 105, 105/455, 106, 107, 107/365, 107/431, 107/431/496, 107/432, 107/432/497, 108, 108/461, 109, 109/428, 428/452, 109/459, 111, 111/451, 111/429, 111/430, 112, 112/427, 116, 116/470, 116/471, 116/472, 116/473, 116/474, 116/475, 116/476, 118, 119, 120, 120/518, 120/530, 120/544, 120/552, 120/555, 555/570, 121, 121/443, 122, 123, 124, 124/519, 124/531, 124/545, 125, 126, 127, 128, 128/403, 128/421, 128/422, 128/422/488, 128/423, 128/426, 128/426/440, 129, 129/442, 129/434, 434/441, 130, 130/468, 130/468/580, 130/468/585, 131 (Part), 132 (Part), 134 (Part), 135, 135/575, 135/576, 135/581, 135/582, 135/582/623, 135/583, 136, 136/439, 136/485, 136/486, 137, 137/436, 138, 139, 139/584, 140, 140/469, 141, 141/580, 141/484, 142, 142/596, 596/604, 142/602, 143, 144, 145, 146, 146/465, 146/466, 146/467, 146/487, 147, 147/437, 147/462, 147/463, 147/464, 147/499, 147/500, 150/615, 150/617, 150, 151, 151/454, 151/454/628, 151/458, 152 (Part), 153 (Part), 154 (Part), 163 (Part), 164 (Part), 166 (Part), 252 (Part), 252/341 (Part), 253 (Part), 254, 254/372, 254/372/610, 254/373, 373/618, 254/374, 255, 255/489, 255/490, 255/490/557, 255/444/491, 255/444, 256, 257 (Part), 258, 259, 260, 261, 262, 263, 265, 266, 266/594, 266/595, 267, 268/375, 269, 270, 271, 271/507, 271/390, 272, 273, 274, 274/438, 276 (Part), 278 (Part), 288 (Part), 289 (Part), 290 (Part), 291, 293 (Part), 294, 294/410, 299, 300, 301, 301/605, 301/606, 301/607, 301/608, 302, 303, 305, 310, 310/502, 311, 311/503, 311/571, 311/572, 311/573, 311/574, 312, 312/479, 312/480, 312/481, 312/482, 312/483, 312/479/578, 312/480/579, 313, 318, 319, 327/377 (Part), 242; 49 (Part), 97 (Part), 98 (Part), 98/331, 99, 100, 101, 102, 110, 113, 114, 115, 117, 124/329, 148, 149, 264, 268, 275 (Part), 284 (Part), 285 (Part), 296, 297, 304, 306, 308, 309, 314, 315, 316, 320, 272/376, 321, 322, 323, 324, 325, 326, 328.

**3. Village – Kathaphali:**

124, 28, 59, 62, 67, 91, 92, 93, 96, 97, 99, 102, 108, 110, 118, 125, 127, 135, 136, 148, 153, 167, 168, 172, 185, 191, 192, 202, 207, 217, 219, 220, 222, 236, 237, 207/340, 93/348, 106/350, 155/361, 193/365, 91/382, 91/383, 91/384, 91/385, 99/386, 99/387, 89, 90, 105, 107, 132, 130, 164, 213 (Part), 138, 128, 32, 33, 77, 78, 79, 80, 81, 84, 86, 87, 243, 76/347, 111, 13, 47, 49, 179, 101, 208 (Part), 69, 72, 94, 29/333, 31/337, 183, 180, 181, 182, 186, 203, 184/339, 147/357, 202/367, 244, 214 (Part), 226/512, 246/513, 247/514, 233/520, 273 (Part), 143, 19, 20, 21, 22, 120, 140/352, 195, 196 (Part), 197, 198, 194, 140, 144, 139, 140/353, 205, 206, 131, 395/539, 395/540, 395/541, 395/542, 188/395, 177/1/389, 91/390, 91/391, 93/392, 99/393, 177/402, 177/398, 177/399, 177/400, 177/401, 16, 50, 12/405, 8/407, 10/408, 11/409, 14/410, 9/418, 177/427, 177/419, 177/420, 177/421, 177/422, 177/423, 177/424, 215 (Part), 216, 177/426, 177/428, 177/429, 177/430, 177/431, 65, 65/543, 543/546, 65/544, 544/547, 65/545/545/548, 103, 106, 109, 114, 115, 126, 152, 184, 221, 223, 223/343, 39, 41, 150, 104, 113, 65/432, 101/433, 103/434, 106/435, 109/436, 114/437, 115/438, 126/439, 52/440, 21/441, 23/442, 42, 39/443, 150/444, 37, 121, 190, 99/394, 37/445, 36, 98, 158, 193, 241, 91/395, 37/446, 190/447, 121/448, 99/449, 127/450, 88, 88/538, 145, 33/451, 34, 176/452, 177/455, 177/456, 177/457, 177/458, 177/459, 177/460, 177/461, 177/462, 177/463, 177/464, 177/465, 177/466, 177/467, 177/468, 177/469, 176/470, 157/473, 35/472, 85, 85/471, 240, 35/474, 32/335, 82, 149, 201, 236/371, 21/475, 475/482, 37/476, 81/477, 86/478, 243/479, 173, 176/480, 76, 76/495, 176/481, 147, 68, 69/483, 73/484, 74, 75, 72/485, 73, 241/486, 241/487, 98/488, 98/489, 98/490, 432/491, 432/492, 65/493, 176/494, 176, 96/496, 237/497, 80/498, 80/499, 96/500, 237/505, 78/506, 19/507, 237/508, 217/509, 19/511, 233/515, 224, 226/521, 226 (Part), 232, 234/516, 226/522, 231/517, 234, 225, 231, 342/518, 235, 217/342, 64, 230/523, 233 (P), 246 (Part), 247, 28/334, 194/524, 129, 129/525, 141, 244/526, 136/354, 244/528, 354/530, 244/531, 363/533, 244/534, 128/363, 188/395/536, 227, 369; 7, 31, 40, 43, 44, 45, 160, 166, 169, 170, 177, 218, 188/364, 66, 71, 95, 100, 112, 119, 122, 123, 133, 134, 137, 142, 146, 171, 69/346, 120/351, 142/355, 142/356, 8, 9, 10, 11, 12, 14, 15, 25, 26, 29, 32, 35, 38, 48, 52, 53, 54, 56, 61, 70, 83, 116, 117, 154, 157, 159, 161, 162, 163, 174, 200,

204, 276, 184/341, 59/344, 65/345, 97/349, 149/358, 86/359, 87/360, 160/362, 193/366, 202/368, 239/372, 243/373, 1, 4, 6, 23, 30, 46, 51 (Part), 58, 63, 151, 155, 165, 188 (Part), 199, 210, 238, 242 (Part), 245, 277 (Part), 284 (Part), 37/338, 5.

#### 4. Village – Paramanandapur:

74, 90, 113, 115, 117, 149, 150, 167, 173, 175, 189, 192, 201, 205, 211, 214, 215, 216, 221, 224, 225, 226, 232, 248, 249, 250, 254, 255, 258, 259, 262, 263, 264, 265, 266, 273, 59, 61, 63, 66, 69, 70, 75, 76, 89, 91, 96, 141, 207, 18, 19, 29, 31, 157, 157/408, 408/412, 157/409, 17, 20, 21, 24, 25, 26, 30, 12, 16, 22, 23, 27, 32, 80, 118, 137, 138, 140, 170, 171, 133/281, 136/283, 178/297, 109, 116, 121, 122, 123, 124, 130, 217, 219, 46, 50, 51, 62, 85, 88, 95, 99, 100, 102, 103, 160, 162, 163, 165, 206, 209, 267, 137/285, 45/386, 92/388, 94, 97, 154/382, 179/294/298, 179/294/299, 179/294/300, 179/294/301, 179/294/302, 5, 7, 10, 15, 28, 132, 127/304, 146, 131, 143/305, 294/306, 218/307, 218, 297/308, 297/308/377, 90/310, 115/311, 149/313, 173/314, 175/315, 226/316, 229, 230, 231, 239/317, 250/318, 250/319, 259/320, 259/321, 259/322, 264/323, 266/324, 242/293, 211/326, 215/327, 215/328, 216/329, 220, 270, 221/330, 90/332, 115/333, 149/335, 167/336, 173/337, 226/338, 227, 228, 238, 239/339, 250/340, 257, 259/341, 260, 265/342, 266/343, 270/344, 192/346, 193/347, 205/348, 211/349, 214/350, 215/351, 215/352, 216/353, 259/375, 115/355, 173/357, 192/359, 193/360, 239/361, 240, 256, 264/364, 266/365, 215/367, 215/368, 216/369, 225/371, 226/372, 73, 270/373, 117/356, 74/354, 270/374, 133, 74/309, 117/334, 74/331, 170/376, 250/362, 259/363, 211/366, 119, 120, 139, 111, 45, 154/381, 164, 208, 92, 98, 101, 154/383, 137/284, 44, 54, 154/384, 156, 202, 136, 158, 204/389, 268/391, 269, 154, 155, 159, 204/390, 268, 45/387, 47, 87, 93, 107, 110, 154/385, 204, 166/288, 268/392, 70/393, 74/394, 394/411, 152, 152/413, 303/398, 135, 152/397, 131/303, 151/287, 153, 157/399, 311/400, 133/401, 133/402, 86, 117/312, 133/403, 133/404, 133/405, 133/406, 133/407, 221/370/410, 221/370, 182; 161, 178, 179, 180 (Part), 188, 191, 194, 196, 199, 241, 243, 179/294, 179/296, 84, 169, 172, 174, 195, 198, 200, 203, 210, 222, 242, 278, 215/292, 4, 6, 8, 9, 11, 13, 14, 36, 38, 42, 43, 48, 49, 52, 53, 55, 56, 57, 58, 71, 72, 77, 106, 134, 142, 143, 145, 147, 148, 151, 181 (Part), 184 (Part), 185, 186, 187, 190, 197, 212, 213, 223, 235, 236, 237, 246, 247, 251, 252, 253, 261, 271, 272, 274, 20/276, 66/277, 86/279, 89/280, 133/282, 149/286, 173/289, 175/290, 193/291, 1, 33, 125, 128, 129, 127.

List of Forest Cadastral Survey Plot numbers to be acquired:

#### 1. Village – Durubaga:

1267 (Part), 1372 (Part), 1132 (Part), 1245 (Part), 1263 (Part), 1264, (Part), 1271 (Part), 1273, 1275, 1280 (Part), 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1291, 1293, 1295, 1296, 1298, 1300, 1304, 1306, 1308, 1310 (Part), 1364 (Part), 1366, 1349 (Part), 1145 (Part), 1165 (Part), 1255 (Part), 1135, 1133 (Part), 1136, 1308/01, 1308/02.

2. Village Katarbaga: 38 (Part), 277 (Part), 286 (Part), 292 (Part), 295 (Part), 298, 307, 317, 327 (Part).

3. Village Kathaphali: 2, 3, 55, 60, 239, 17, 18, 24, 27, 57, 156, 175, 178, 187, 189, 37/336.

4. Village Paramanandapur: 244, 275(Part), 179/295 (Part), 2, 3, 34, 35, 37, 39, 40, 41, 60, 64, 65, 67, 68, 78, 79, 81, 82, 83, 104, 105, 108, 112, 114, 126, 144, 166, 168, 176, 177, 183 (Part), 233, 234, 245 (Part).

5. Hundarkhol Reserve Forest.

6. Kahnupahad Reserve Forest.

#### Boundary description:

The boundary of Dip side Manoharpur Coal Block obtained with World Geodetic System (WGS) 84 Datum line and Universal Transverse Mercator (UTM) projection system from Geological Report prepared by Central Mine Planning & Design Institute (CMPDI).

Line 1-2 : The boundary starts from station '1' is situated on the north-western corner of Dipside Manoharpur Coal Block in village Katarbaga and runs towards east direction touches the common village boundary of Katarbaga and Durubaga villages. Then the boundary enters into village Durubaga passes the village road of Durubaga-

Paramanandapur, then runs towards East and meets at station '2' the northeast corner, inside the plot number 1349 of Durubaga village (the northern boundary).

Line 2-3 : The line starts from station '2' and runs towards south direction touches the common boundary of Paraamanandapur village and Kahnupahad Reserve forest. The boundary enters into the Kahnupahad reserve forest and touches the common boundary of Kahnupahad reserve forest Kathaphli village. Then the boundary enters into Kathaphali village and meets at station '3' i.e. the southeast corner station, inside the revenue plot number – 277 (the eastern boundary). The Eastern boundary is limited to 'Manoharpur' coal block.

Line 3-4 : The line starts from station '3' and runs towards west direction touches the common boundary of Kathaphali village and Hundarkhol reserve forest and meets station '4' the southwest corner station (the southern boundary).

Line 4-1 : The line starts from station '4' and runs towards north direction touches the common boundary of Hundarkhol reserve forest Katarbaga village, then the boundary enters to Katarbaga village and meets the station '1' the northwest corner station (the western boundary).

[F.No. 43015/13/2019-LA&IR ]

RAM SHIROMANI SAROJ, Dy. Secy.

### श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2226.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एल. आई.सी. आफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 208/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-17012/34/1998-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

### MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd December, 2019

**S.O. 2226.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 208/1999) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of LIC of India, and their workmen, received by the Central Government on 23.12.2019.

[No. L-17012/34/1998-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

### NO. CGIT/LC/R/208-99

Shri Shyamdas Panika Manikpury  
Ex-Peon of LIC,  
Village Ghoghra,  
P.O.Semri, Tehsil Shakti,  
District Bilaspur

**Versus**

...Workman/Union

LIC of India,  
The Sr.Divisional Manager,  
LIC of India,  
Divisional Office, Jeevan Bima Marg  
Raipur-492001.

...Management



**AWARD**

(Passed on this 17th day of October, 2019)

1. As per letter No dated 14-5-1999 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-17012/34/98/IR(B-II). The dispute under reference relates to:

2. **“Whether the action of the Management of LIC of India Korba Branch, Dt. Bilaspur(under Divisional Office,Raipur,MP) in terminating the services of Sh. Shyamdas Panike Manikpury, Ex-Peon, LIC Korba Branch w.e.f. 25-10-1994 is justified? If not, what relief the workman is entitled?”**

3. After registering the case on the basis of reference, notices were sent to the parties.

4. The case of the Workman as put in his statement of claim is that he was a peon in the Korba branch of the Management Corporation from 5.12.1991 to 24.10.1994. He was disengaged/ terminated from services after an oral order of the Management on 25.10.1994 without any notice or compensation. He raised a dispute before Assistant Labour Commissioner on 23.12.1994. A compromise was reached at and he was given employment by Management again on 28-2-1995. He remained employed till 19-2-1998 and was again terminated from services without any notice or compensation. He further alleged that he was selected on the basis of interview and was paid wages as per rules. His pay was also revised in August 1992 and he was paid difference between revised pay and old pay. He was also paid bonus in 1997 and 1996. Accordingly, he worked for a period of more than 240 days in every year. His termination is violative of Section 25-F and Section 25-N of Industrial Disputes Act. The principle of first come and first go was not applied in his case. No seniority list of the workers were prepared, hence termination is against law on this ground also. Accordingly, he has prayed that he be reinstated with all service benefits setting aside his termination.

5. The case of Management in their statement of defense is that the workman was a simple daily wager not entitled to any post. He was not appointed against any vacancy. Accordingly to Section 49 of the Life Insurance Corporation Act 1956, the Corporation may with the previous approval of the Central Government by notification in the Gazette of India, make Regulation not inconsistent with the Act. Corporation, in exercise of powers vested in it under Clause (b) and (bb) of Sub-Section 2 & Section-49 of the Act, has made Life Insurance Corporation of India(Staff ) Regulations 1960 hereinafter referred to as the ‘Regulations’. Regulation 8, of which provides for temporary staff. Also, it was pleaded that the claimant had been working at Branch Office No.1 and No.2 of the management as daily wager for 4 days in December,1990 and 97 days in 1991. He has worked as daily wager in Branch Office No.2 from 1991 to 1998 with terminal breaks but he never worked for a period of 240 days in any year. Accordingly, it has been prayed that the reference be answered against the workman.

6. In evidence the workman has examined himself on oath and has provided documents of experience certificate of march,1996. The calculation sheet regarding arrears for the period August,1992 to March,1996 are Exhibit W-1 and W-2 respectively. The Management has examined its witnesses Shri M.K.Gupta, Manager Law, Dinesh Khapad, Officers and Sanjay Kr. Saha on oath but only Sanjay Kumar Saha was produced by Management for cross examination, hence on cross-examination of other two witnesses as mentioned will not be read into evidence in support of Management. The Management has further filed and proved list regarding the days of work done by the applicant/workman in 1990 and 1991, list/calculation sheet of work done from December,1991 to February,1998 which are exhibit M-1 and M-2 respectively.

7. The workman did not appear hence arguments of learned counsel for Management Shri Amitabh Bharti was heard by me. The workman was given opportunity to file written arguments which he did not avail. I have gone through the record.

8. After having perused the record in the light of the arguments the following issues arise in this case:-

**“1.-whether the termination of services of workman w.e.f from 25<sup>th</sup> October,1994 is justified in law?**

**2.-If the answer to issue no.1 is in favour of workman to what relief the workman is entitled.?”**

9. **Issue No. 1**

Though parties differ in their pleadings on the point whether the workman was a daily wager or regular appointee, admitted is the fact between the parties is that the workman worked with the Management till February,1998 whereas the dispute in the reference is whether the termination of services of Workman is w.e.f 25<sup>th</sup> October,1994 is justified or not. The reference itself is misdirected but it is not within the powers of this court to travel beyond the reference as it will be against settled provisions of law in this respect. As stated earlier it is the case of the workman which is admitted by the management that the workman was disengaged on 25<sup>th</sup> October 1994 but was re-engaged subsequently and remained engaged till December-1998 as mentioned above.

10. Certain provisions of law which is required to be mentioned here are being mentioned as follows:-

**Section 2(oo) of Industrial Disputes Act:**

2[(oo) “retrenchment” means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include— (a) voluntary retirement of the workman; or (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

**Section 2(bb) of the Industrial Disputes Act:**

2 [(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

**Section 25(F) of the Industrial Disputes Act:**

25F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until— (a) the workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

**Section 25(N) of the Industrial Disputes Act:**

[25N. Conditions precedent to retrenchment of workmen.—(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,— (a) the workman has been given three months’ notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf. (2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner. (3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen. (4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days. (5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order. 1. Sub-section (6) re-numbered as sub-section (10) by Act 49 of 1984, s. 4 (w.e.f. 18-8-1984). 2. Subs. by s. 5, *ibid.*, for section 25N (w.e.f. 18-8-1984). 33 (6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication: Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. (7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him. (8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied

that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order. (9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

#### **Rule 76 of Industrial Dispute Central Rules-1957 :**

**76-Notice of retrenchment.**—If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service 1 Subs. by S.O. 2485, dated 20th May, 1985. 2 Subs. by S.O. 2485, dated 20th May, 1985. 3 Subs. by G.S.R. 289, dated 2nd March, 1982 (w.e.f. 13-3-1982). 4 Subs. by S.O. 2485, dated 20th May, 1985. The Industrial Disputes (Central) Rules, 1957 for not less than one year under him (hereinafter referred to as 'workman' in this rule and in rules 77 and 78), he shall give notice of such retrenchment as in Form P to the Central Government, the Regional Labour Commissioner (Central) and Assistant Labour Commissioner (Central) and the Employment Exchange concerned and such notice shall be served on that Government, the Regional Labour Commissioner (Central), the Assistant Labour Commissioner (Central), and the Employment Exchange concerned by registered post in the following manner:— (a) where notice is given to the workman, notice of retrenchment shall be sent within three days from the date on which notice is given to the workman; (b) where no notice is given to the workman and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and (c) where retrenchment is carried out under an agreement which specifies a date for the termination of service, notice of retrenchment shall be sent so as to reach the Central Government, the Regional Labour Commissioner (Central), the Assistant Labour Commissioner (Central), and the Employment Exchange concerned, at least one month before such date: Provided that if the date of termination of service agreed upon is within 30 days of the agreement, the notice of retrenchment shall be sent to the Central Government, the Regional Labour Commissioner (Central), the Assistant Commissioner (Central), and the Employment Exchange concerned, within 3 days of the agreement.

#### **Rule 77 of Industrial Dispute Central Rules 1957:**

**77. Maintenance of seniority list of workmen.**—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

11. Thus the relevant fact to the issue in hand is whether from the evidence on record the workman has successfully proved his continuous engagement for a period of 240 days preceding his date of disengagement/termination. Exhibit W-2 is the calculation sheet of difference in wages filed and proved by the workman which shows that within one year preceding the date of his disengagement i.e from 24-10-1993 till 25-10-94 the workman has been paid, various amount of money in some months. This amount is reduced which leads to an inference that in the month in which the amount in the head of basic wages is reduced in Exhibit W-2 the workman did not work for the whole month. This fact becomes more clear in the light of statement of Management witness and Exhibit M-2 the calculation sheet regarding days the workman worked in every month in between December, 1991 till February, 1998. It shows that the workman has worked for 171 days in the period January-1994 till October-1994. This document further shows that the workman worked 20 days in November and 23 days in December hence the total number of working days in the year preceding the date of termination of the workman is less than 250 days and accordingly, a self service statement of the workman on oath is that he worked 240 days or more in the year preceding the date of his termination is held not proved. On the basis of above discussion the case of the workman that he worked for a period of 240 days in the year preceding the date of his termination is held not proved.

12. As regards to violation of other provisions of 'Act' as mentioned above, there is no evidence on record to substantiate the work of the workman.

13. In the light of above finding, it is held that the action of Management in determining the services of present workman from 25-10-1994 is legal and justified in law.

Issue No.1 is answered according.

#### **Issue No.2:-**

In the light of finding recorded in Issue No.1 the workman is held entitled to no relief.

14. Accordingly the award is passed as follows:-

- A. The action of Management of Life Insurance Corporation of Korba, District Bilaspur in terminating the services of the present workman Shymal Das Manikpuri w.e.f 25-10-1994 is justified in law.
- B. The Workman is held entitled to no relief.

15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2227.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.जी. एस. इण्डिया प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 61/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-31025/02/2018-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2227.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of SGS India Pvt. Ltd., and their workmen, received by the Central Government on 23.12.2019.

[No. L-31025/02/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

**PRESENT :** M. V. Deshpande, Presiding Officer

**REFERENCE NO.CGIT-2/61 of 2018**

#### EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. S.G.S. INDIA PVT. LTD.

The Director [HR],  
M/s. SGS India Pvt. Ltd.,  
SGS House, 4B, A.S. Marg,  
Vikhroli [W], Mumbai  
Maharashtra – 4000 083.

AND

#### THEIR WORKMEN

The General Secretary,  
Marmagao Waterfront Worker's Union,  
PO : Box. No. 90,  
VASCO, GOA.

Shri Ranjit N. Naik & 14 others,  
C/o. Gopi P. Manjrekar, H. No. 137/157,  
Merces Vaddem Chaferan,  
Near Sai Baba Temple,  
Vasco, Goa.

**APPEARANCES:**

FOR THE EMPLOYER : Mr. Padmanabh Shetty, Advocate

FOR THE WORKMEN : Ms. Kunda Samant, Advocate

Mumbai, dated the 18<sup>th</sup> November, 2019

**AWARD**

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31025/02/2018 – IR (B-II) dated 14.11.2018. The terms of reference given in the schedule are as follows :

*“Whether the demand raised by the management for resumption of work on alleged closure of its operations in Goa w.e.f. 10.06.2016 and to tret the termination of services of 18 workmen [Annexure-V] as illegal, in view of company still continuing and contracting out its work to M/s. Ericson Richard Company for the work at JSW, Vasco, Goa, is legal and justified ? If, so, what relief they are entitled to ?”*

List of workers involved in the closure by S.G.S. India Pvt. Ltd.

1. Premnath Chodankar
2. Gopi Mandrekar
3. Bajirao Dessai
4. Sunder Gawde
5. Sonu Patekar
6. Anand Fatekar
7. Amol Naik
8. Vanita Shenvi
9. Ranjit Naik
10. Ajay Kurtarkar
11. Ramesh Naik
12. Santosh Naik
13. Bhagwan Dhawade
14. Sushant Redkar
15. Vasudev Mandrekar
16. Sanjay Joshi
17. Radha Honawarkar
18. Sumitra Reddy

2. After the receipt of the reference, both the parties were served with the notices.

3. 15 workmen filed application Ex.7 for deleting their names on the ground that first party employer have settled their disputes, demands, claims, rights, differences etc. on monetary basis in full & final settlement as per settlement dt. 24.7.19. In view of that their names are deleted from the reference. In view of that it appears that even union has not filed the statement of claim.

4. On going through the Roznama, it appears that union has not substantiated its claim by filing statement of claim or other evidence on record. In view of that reference is liable to be rejected for want of evidence. Hence Order.

**ORDER**

**Reference is rejected for want of evidence.**

Date: 18.11.2019

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2228.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.जी. एस. इण्डिया प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 40/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-31025/04/2018-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2228.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Mumbai* as shown in the Annexure, in the industrial dispute between the management of SGS India Pvt. Ltd., and their workmen, received by the Central Government on 23.12.2019.

[No. L-31025/04/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

**PRESENT :** M. V. Deshpande, Presiding Officer

#### REFERENCE NO.CGIT-2/40 of 2018

#### EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. S.G.S. INDIA PVT. LTD.

The Director [HR],  
M/s. SGS India Pvt. Ltd.,  
SGS House, 4B, A.S. Marg,  
Vikhroli [W], Mumbai – 4000 083.

AND

#### THEIR WORKMEN

The General Secretary,  
Marmagao Waterfront Worker's Union,  
PO : Box. No. 90,  
VASCO, GOA.

#### APPEARANCES:

FOR THE EMPLOYER : Mr. Padmanabh Shetty, Advocate

FOR THE WORKMEN : Ms. Kunda Samant, Advocate

Mumbai, dated the 18<sup>th</sup> November, 2019

#### AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-31025/04/2018 – IR (B-II) dated 28.08.2018. The terms of reference given in the schedule are as follows :

*“1) Whether the action of the management of SGS India Pvt. Ltd., Goa in not making payment of wages to workmen Shri Baji Rao Desai, Shri Sonu Patekar, Shri Anand Fatji & shri Sunder Gaude w.e.f. 18.05.2015 is legal, proper and justified ? If not legal and justified, what relief they are entitled to ?*

*2) Whether the action of the management of SGS India Pvt. Ltd., Goa in not making payment of wages to workmen Shri Gopi Mandrekar and shri Premnath Chodankar effective w.e.f. 05.06.2015 is legal, proper and justified ? If not legal and justified, what relief they are entitled to ?”*

2. After the receipt of the reference, both the parties were served with the notices.

3. Three workmen filed application Ex.5 for deleting their names on the ground that first party employer have settled their disputes, demands, claims, rights, differences etc. on monetary basis in full & final settlement as per settlement dt. 24.7.19. In view of that their names are deleted from the reference. In view of that it appears that even union has not filed the statement of claim.

4. On going through the Roznama, it appears that union has not substantiated its claim by filing statement of claim or other evidence on record. In view of that reference is liable to be rejected for want of evidence. Hence Order.

### **ORDER**

**Reference is rejected for want of evidence.**

Date: 18.11.2019

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2229.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 25/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/09/2014-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2229.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of *Punjab National Bank*, and their workmen, received by the Central Government on 23.12.2019.

[No. L-12012/09/2014-IR(B-II)]

SEEMA BANSAL, Section Officer

### **ANNEXURE**

#### **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

**Present:** Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi

#### **INDUSTRIAL DISPUTE CASE NO. 25/2014**

**Date of Passing Award- 15<sup>th</sup> November, 2019**

**Between:**

Shri Isham Singh,  
S/o Late Shri Sangat Singh, Vill Sandalhedi,  
R/o PO. Puwarka,  
Saharanpur (U.P)

...Workman

**Versus**

1. Project Director,  
Punjab National Bank Shatabdi Gramin Vikas Nyas,  
Matki-Jharauli, Distt- Saharanpur  
Saharanpur (U.P)

2. Chairman Punjab National Bank,  
C/o Shatabdi-Gramin Vikas Nyas 3<sup>rd</sup> Floor,  
Atmaram House-1, Tolstory Marg,  
New Delhi- 110001.

...Managements

**Appearances:-**

Shri Sidharat Joshi, (A/R) For the Workman.

Shri Rajat Arora, (A/R) For the Managements

**AWARD**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Punjab National Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/09/2014 (IR(B-II) dated 26.02.2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of PNB Centenary Rural Development Trust, Saharanpur through its Project Director for not considering the re-employment of Shri Isham Singh, Veterinary Attendant even after rendering the services more than 5 year service is just and fair if not to what relief the workman is entitled to and from which date?”

On receipt of the reference both the claimant and management were noticed. The claimant filed the claim statement stating therein that on 07.12.1992 the board of Directors of PNB took a decision for creation of a Trust under the name of “PNB Centenary Rural Development Trust” for undertaking Rural Development Projects and implementing the same from funds received from National Fund for Rural Development. The said Trust established the project for soil testing and artificial insemination Centre (veterinary Hospital) at Matki Jharoli in District of Saharanpur with a project Director as the head of the Activities. In the year 2000 advertisement was issued in the newspaper by the management no.1 for appointment to various posts. The claimant applied for the same and was selected for the post of veterinary Assistant. An appointment letter was issued to him on 11.10.2000 for the period of 1 year on consolidated salary of Rs. 2000/- per month. The said temporary employment was renewed year after year and in the year 2009 the claimant was promoted to the post of senior technician carrying consolidated pay of Rs. 6000/- per month as, he was having educational qualification in MSC (Agriculture). His employment continued upto 10.09.2012 after which the same was not renewed. Though the workman continued in the employment for about a decade, he was not getting the benefit like the regular employee of the Bank. He was very often demanding the same and the workman continued to get fixed monthly salary despite the fact that the PNB had sanctioned the specific post in regular pay scale for running the project. All the representations made by the workman demanding regular pay scale as admissible to the other employees of PNB were kept out of the consideration. In the year 2007 the management implemented the minimum wage notified by the state of U.P under the provision of Minimum Wage Act. However the said practice was discontinued in the year 2009 and instead a consolidated amount of Rs. 6000/- was paid to the workman. Being aggrieved by the demand of the claimant for the pay scale at par with U.P State Government the management terminated his service w.e.f. 10.09.2012 and while doing so never complied the provision of section 25-F,G, and H of the ID Act. Writ petition was filed by the claimant before the Hon’ble High Court of Allahabad praying regularization of his service and revised pay scale of U.P State Government. Though the management was fully aware about the pendency of the writ petition, issued a letter on 01.08.2012 asking the workman to make application for renewal of his contract within 3 days. Though, the claimant complied the same the management took a plea of non receipt of the same and ultimately terminated his service w.e.f. 10.09.2012. The representation made by the claimant for reconsideration of the order dated 10.09.2012 was rejected. Finding no other way he raised Industrial Dispute before the conciliation officer alleging that the termination of service tantamounts to retrenchment within the meaning of section 2(OO) of the ID Act and the claimant having completed 240 days of work in a calendar year is entitled to the benefits of section 25-F,G, and H of the ID Act. Though the conciliation proceeding was taken up and the management participated in the same it could not yield any result. On receipt of failure report the Appropriate Government referred the matter for adjudication.

The management No.1, 2 jointly filed WS refuting the stand of the claimant. The specific plea taken by the management in the WS is that the claimant was never an employee of the management Bank. A trust was created having the name PNB centenary Rural Development Trust to undertake activities like soil testing artificial insemination, treatment of animals, computer training, sewing training etc. The claimant was engaged on contractual basis for one year w.e.f. 16.10.2000 and the contract was renewed every year for further period of one year upto 07.12.2009. After 2009 the claimant continued in the job without the contract being renewed. On 01.08.2012 the claimant was asked to renew the contract of employment within 30 days from the date of receipt of the notice failing which it would be presumed that the claimant is not interested to continue with PNB centenary Rural Trust. Since the claimant failed to renew the contract he was disengaged from the trust by letter dated 10.09.2012. It is the further stand of the management that the provisions of section 25-F of the ID Act is not applicable to the workman since he is not a workman within the definition of section 2(S) of the ID Act. It has also been pleaded that the grievance of the claimant for non compliance of the provisions of section 25-F of the ID Act cannot be adjudicated as the same is not within the scope of the reference received from the appropriate government. While pleading that the reference is for adjudication regarding the refusal of the reemployment



of the claimant by the management all other stand taken by him regarding equal pay scale and non compliance of section 25-F are not tenable. While taking a stand as per the observation of the Hon'ble High Court of Allahabad the management has pleaded that the appointment of petitioner was purely contractual as has been held by the Hon'ble High Court and since the claimant failed to submit an application for renewal of his contract, his disengagement was rightly done. With such assertion the management has pleaded for dismissal of the claim.

On these rival pleadings following issues were framed for adjudication.

### ISSUES

1. Whether the action of the management PNB Centenary Rural Trust for not considering the re-employment of the claimant even after rendering service for more than 5 years is just and fair? If so its effect.
2. Whether the claimant comes within the category of the workman as defined in section 2(S) of the ID Act.
3. To what relief the workman is entitled to.

On behalf of the claimant he examined himself as WW1 and placed certain documents which were marked in a series of WW1/1 to WW1/23. These documents include the vacancy advertisement the appointment letter, several representations made by the claimant demanding equal pay at par with the regular employees of the Bank, the last contract renewal letter dated 07.12.2009 the promotion letter dated 08.12.2009 the Government circulars relating to minimum wage payable to casual workers and the letter of the management asking the workman to renew his contract, order of the Hon'ble High Court of the Allahabad etc. On the other hand the management examined the project director of PNB Centenary Rural Development Trust as MW1. The witness also produced some documents which were marked as MW1/1 to MW1/10. In addition to this the claimant also confronted the management witness with certain documents.

At the outset of the argument the Ld. A/R for the workman submitted that despite the order passed by the Hon'ble High Court of Allahabad the management of PNB Centenary Rural Development Trust Saharanpur refused to accept the candidature of the claimant for re-employment as Veterinary attendant even though he had rendered 12 years of continuous service for the management. This refusal amounts to unfair labour practice and the claimant is entitled to the relief sought in the claim petition.

In the reply argument the Ld. A/R for the management submitted that the Hon'ble High Court of Allahabad have already decided that the employment of the workman was purely contractual in nature and renewable from time to time. While disposing the writ petition the Hon'ble High Court never issued a direction for continuance of the service of the claimant. Rather observed that the contractual employment having a particular life span need to be renewed and once no renewal proceeding has been undertaken, the action taken by the management cannot be faulted. That being the view of the Hon'ble High Court's decision, nothing more is left to be adjudicated in this proceeding and thereby he argued for dismissal of the claim.

### FINDINGS

#### ISSUE No. 1

By examining himself as WW1 and by producing a documents marked as WW1/12, WW1/10 and WW1/14 the workman has stated that demanding equal pay scale and regularization of service writ was filed by him and other co-workers before the Hon'ble High Court of Allahabad and the management contested the same. He was appointed initially on 11.10.2000 on temporary basis and in the year 2009 was promoted to the post of senior technician. His employment continued upto 10.09.2012 as such. Though his employment was initially temporary in nature, the same was never renewed year to year except on one occasion i.e. in the year 2009. As per that renewal letter the engagement was renewed for one year w.e.f. 07.12.2009 for a period ending 06.12.2010. After that no steps were ever taken by the management for annual renewal of his employment. Being annoyed by the writ petition filed by him the management on 15.12.2011 by letter marked as WW1/10 directed the workman to produce documents of academic and technical qualification within 3 days from the date of this notice failing which the matter shall be referred to the higher authorities. On receipt of the said notice the claimant gave a reply requesting that the matter is pending before the Hon'ble High Court and the authorities must wait for the decision. But the management again on 01.08.2012 vide a letter marked as WW1/12 made a further communication asking. The workman to get the contract renewed on a proposed salary of Rs. 7500/- per month giving ultimatum that if the contract is not renewed within 30 days of the notice no further correspondence will be made. In reply to that notice the workman represented that the matter is subjudice before the Hon'ble High Court Allahabad and the management should wait for the verdict. That letter of the workman dated 23.08.2012 has been marked as WW1/13. Soon after the receipt of the said reply the management by its letter dated 10.09.2012 marked as WW1/14 terminated the service of the workman w.e.f. 10.09.2012 and being aggrieved by the same the Industrial Dispute was raised.

All these documents filed by the workman have been admitted by the management with explanation that the engagement of the workman was purely temporary in nature and renewable from time to time. The workman since did not opt for renewal of his contract despite service of the notice, the management rightly took a decision for his disengagement. The Ld. A/R representing the management has filed a copy of the profile of PNB Centenary Rural Development Trust and declaration of trust marked as MW1/6. This declaration deals with affairs and mode of management of the same by the Trust. As per the terms and conditions contemplated therein the trust has the power of making appointment of contractual staff for implementation of its schemes. A document has also been placed on record which is the appointment letter of the claimant and this letter clearly shows that the appointment of the workman was purely temporary in nature initially for a period of 1 year and the renewable subject to fulfillment of all the terms and conditions etc. It is an admitted fact by both the parties that the appointment was last renewed in the year 2009. It is also admitted that the claimant had filed writ petition No. 75503 of 2011 before the Hon'ble High Court of Allahabad claiming pay and other service benefits at par with the regular employees of PNB and during pendency of that writ petition the service of the claimant was terminated on 10.09.2012. The workman has argued that there was no renewal year after year as claimed by the management and as a vindicated action on the pretext of renewal his service was terminated.

But the documents like the appointment letter placed on record by both the parties clearly shows that the appointment was against the post created under the trust which was purely temporary and initially for a period of one year renewable thereafter. Why the contract was not renewed every year is not the subject matter of adjudication in this dispute. The dispute relates to the decisions of the management in not renewing the service of the workman after 10.09.2012. The management has explained that the Hon'ble High Court in its order dated 20.11.2012 passed in WPC No. 75503/2011 have clearly held that once the appointment is purely contractual and the contract has fixed the life span of the employment the same is required to be renewed time to time. The Hon'ble High Court have also held that even if the petitioners have over stayed for some time without renewal of the contract the same would not confer an indefeasible right on the petitioner to claim continuance with the trust in question. Not only that the Hon'ble Court have also held in the same order that when the petitioner was asked to take steps for renewal and he failed to do so, it cannot be held that the management trust had not acted fairly by terminating the service of the claimant workman.

In the oral evidence the workman during cross examination has admitted that he was served with a notice by the management for renewal of the contract of his employment vide letter dated 15.12.2011 and 01.08.2012. A last and final notice was served on him for renewal of his contract. It has also been admitted that instead of doing so the workman made correspondence with the management requesting to wait for the final verdict of the Hon'ble High Court. Thus, from the circumstances it clearly appears that the appointment of the workman as per his contract of appointment was purely temporary in nature and the same was required to be renewed on periodical intervals. When the management wanted the workman to take steps for renewal and he did not comply with the direction, a final notice was served on him giving 30 days time to perform his part for renewal of the contract. On that occasion also the workman failed to comply and as a consequence thereof his service was terminated vide letter dated 10.09.2012 marked as WW1/14. These facts based on record have been confirmed by the management witness in his oral testimony. At this juncture it is pertinent to refer to the judgment of the Hon'ble High Court of Allahabad vide order dated 20.11.2012 passed in WPC No. 75503/2011. In the said order the Hon'ble High Court have held in clear term that the appointment of the claimant, was temporary in nature and purely contractual prescribing a particular life span. That contract was not renewed regularly having the effect of over staying of the claimant for some time. But that would not confer a right automatically on the claimant for further continuance in the job.

As evident from evidence both oral and documentary the management trust had asked the workman several times to take steps for renewal of his contract. On one occasion a 30 days notice for the purpose was also given as a last opportunity. As admitted by the claimant he never complied with the direction leading to passing of the order of termination dated 10.09.2012. Thus, the action of the management in not renewing the contract of employment of the workman cannot be found with fault.

The reference has been received for adjudication on the correctness of the decision of the project director in not considering the re-employment of claimant since he had rendered the service for more than 5 years. In his oral statement the claimant has stated that the Hon'ble High Court in its order dated 20.11.2012 had directed the management to consider the request of the workman, deal and decide the same in accordance with law preferably within next two months keeping it open for the management to decide acceptance or non acceptance of his candidature. The workman in his oral statement has stated that when he made application to the management the same was arbitrarily rejected.

The witness examined by the management as MW1 has stated that after termination of contract of the workman a fresh advertisement was issued in the Local Newspaper on 14.02.13 to fillup the vacant post. The claimant was aware of the said advertisement. The said vacant posts were re-advertised on 16.07.2014. The claimant when made application for his re-employment he was intimated vide letter dated 06.02.2013(MW1/8), 25.02.2013(MW1/9) and letter dated 21.07.2014 (MW1/10) to apply properly pursuant to the said advertisement. The workman has not adduced oral or

documentary evidence to prove that pursuant to the advertisement application was submitted by him. During course of argument the Ld. A/R for the claimant submitted that as per the direction of the Hon'ble High Court the management should have considered his employment against the vacant post instead of making fresh advertisement. This argument advanced on the behalf of the claimant finds no support from the judgment of the Hon'ble High Court where in the management was given liberty to consider the candidature of the claimant according to rule and procedure. In the said order the Hon'ble High Court had also kept open for the management to decide the continuance and non continuance of the claimant for the post. Hence, when the management decided to issue fresh advertisement for the vacancy and informed the claimant to apply for the same, and when there is no evidence to believe that any application was submitted by him but not considered by the management, it cannot be held that the action of the management in not considering his re-employment as a Vetnary Attendant was illegal or improper. This issue is accordingly decided against the workman.

### **ISSUE No.2**

The management in its WS has stated that the PNB Centenary Rural Development Trust is not an industry and the claimant is not a workman as defined u/s 2(S) of the ID Act. This issue was never seriously pursued by the parties during the course of adjudication. The law is well settled that industry means any business, trade, undertaking, manufacture or calling of employees and includes any calling, service, employment, handcraft, or industrial occupation or avocation of workmen. In that view of the matter the activities undertaken by the management Trust very well falls within the definition of Industry. The Industrial Dispute Act also defines the workman which includes any person employed in any Industry to do any manual unskilled skilled or technical work for hire or reward etc. The claimant since engaged as a vetnary assistant is a workman under the definition given in the Industrial Dispute Act 1947. This issue is accordingly decided in favour of the claimant.

### **ISSUE No.3**

In view of the finding given in issue no.1 the claimant is held not entitled to any relief as sought by him. Hence, ordered.

### **ORDER**

The reference be and the same is answered against the claimant and it is held that the claimant is not entitled to any relief as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

SMT. PRANITA MOHANTY, Presiding Officer

15<sup>th</sup> November, 2019

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2230.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 20/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/08/2014-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2230.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of *Punjab National Bank*, and their workmen, received by the Central Government on 23.12.2019.

[No. L-12012/08/2014-IR(B-II)]

SEEMA BANSAL, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

**Present:** Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi

**INDUSTRIAL DISPUTE CASE NO. 20/2014****Date of Passing Award- 15<sup>th</sup> November, 2019****Between:**

Shri Hement Kumar,  
S/o Shri Umesh Chand,  
R/o Village Matki Jharoli,  
PO Ghunna,  
Saharanpur (U.P)

...Workman

**Versus**

1. Project Director,  
Punjab National Bank Shatabdi Gramin Vikas Nyas,  
Matki-Jharauli, Distt- Saharanpur  
Saharanpur(U.P)

2. Chairman Punjab National Bank,  
C/o Shatabdi-Gramin Vikas Nyas 3<sup>rd</sup> Floor,  
Atmaram House-1, Tolstory Marg,  
New Delhi- 110001.

...Managements

**Appearances:-**

Shri Sidharat Joshi, (A/R) For the Workman

Shri Rajat Arora, (A/R) For the Managements

**AWARD**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Punjab National Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/08/2014 (IR(B-II) dated 03.03.2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of PNB Centenary Rural Development Trust, Saharanpur through its Project Director for not considering the re-employment of Shri Hement Kumar, Chowkidar on compassionate grounds even after rendering the services more than 5 year service is just and fair if not to what relief the workman is entitled to and from which date?”

On receipt of the reference both the claimant and management were noticed. The claimant filed the claim statement stating therein that on 07.12.1992 the board of Directors of PNB took a decision for creation of a Trust under the name of “PNB Centenary Rural Development Trust” for undertaking Rural Development Projects and implementing the same from funds received from National Fund for Rural Development. The said Trust established the project for soil testing and artificial insemination Centre (veterinary Hospital) at Matki Jharoli in District of Saharanpur with a project Director as the head of the Activities. In the year 2000 advertisement was issued in the newspaper by the management no.1 for appointment to various posts. The father of the claimant had applied for the same and was selected for the post of Sweeper. An appointment letter was issued to him on 01.01.2007 for the period of 1 year on consolidated salary. Since the father of the claimant died during the service the present claimant got compassionate appointment in place of his father against the post of the peon and one appointment letter was issued to him on 01.01.2007 on temporary basis for one year on a consolidated salary of Rs. 2000/- per month. The said temporary employment was renewed year after year and in the year 2009 the claimant was paid the consolidated salary of Rs. 4000/- per month. His employment continued upto 10.09.2012 after which the same was not renewed. Though the workman continued in the employment for about a decade, he was not getting the benefit like the regular employee of the Bank. He was very often demanding the same and the workman continued to get fixed monthly salary despite the fact that the PNB had sanctioned the specific post in regular pay scale for running the project. All the representations made by the workman demanding regular pay scale as

admissible to the other employees of PNB were kept out of the consideration. In the year 2007 the management implemented the minimum wage notified by the state of U.P under the provision of Minimum Wage Act. However the said practice was discontinued in the year 2009 and instead a consolidated amount of Rs. 2000/- he was paid Rs. 4000/-. Being aggrieved by the demand of the claimant for the pay scale at par with U.P State Government the management terminated his service w.e.f. 10.09.2012 and while doing so never complied the provision of section 25-F, G, and H of the ID Act. Writ petition was filed by the claimant before the Hon'ble High Court of Allahabad praying regularization of his service and revised pay scale of U.P State Government. Though the management was fully aware about the pendency of the writ petition, issued a letter on 01.08.2012 asking the workman to make application for renewal of his contract within 3 days. Though, the claimant complied the same the management took a plea of non receipt of the same and ultimately terminated his service w.e.f. 10.09.2012. The representation made by the claimant for reconsideration of the order dated 10.09.2012 was rejected. Finding no other way he raised Industrial Dispute before the conciliation officer alleging that the termination of service tantamounts to retrenchment within the meaning of section 2(OO) of the ID Act and the claimant having completed 240 days of work in a calendar year is entitled to the benefits of section 25-F, G, and H of the ID Act. Though the conciliation proceeding was taken up and the management participated in the same it could not yield any result. On receipt of failure report the Appropriate Government referred the matter for adjudication.

The management No.1, 2 jointly filed WS refuting the stand of the claimant. The specific plea taken by the management in the WS is that the claimant was never an employee of the management Bank. A trust was created having the name PNB Centenary Rural Development Trust to undertake activities like soil testing artificial insemination, treatment of animals, computer training, sewing training etc. The claimant was engaged on contractual basis for one year w.e.f. 16.10.2000 and the contract was renewed every year for further period of one year upto 07.12.2009. After 2009 the claimant continued in the job without the contract being renewed. On 01.08.2012 the claimant was asked to renew the contract of employment within 30 days from the date of receipt of the notice failing which it would be presumed that the claimant is not interested to continue with PNB centenary Rural Trust. Since the claimant failed to renew the contract he was disengaged from the trust by letter dated 10.09.2012. It is the further stand of the management that the provisions of section 25-F of the ID Act is not applicable to the workman since he is not a workman within the definition of section 2(S) of the ID Act. It has also been pleaded that the grievance of the claimant for non compliance of the provisions of section 25-F of the ID Act cannot be adjudicated as the same is not within the scope of the reference received from the appropriate government. While pleading that the reference is for adjudication regarding the refusal of the reemployment of the claimant by the management all other stand taken by him regarding equal pay scale and non compliance of section 25-F are not tenable. While taking a stand as per the observation of the Hon'ble High Court of Allahabad the management has pleaded that the appointment of petitioner was purely contractual as has been held by the Hon'ble High Court and since the claimant failed to submit an application for renewal of his contract, his disengagement was rightly done. With such assertion the management has pleaded for dismissal of the claim.

On these rival pleadings following issues were framed for adjudication.

### ISSUES

1. Whether the action of the management PNB Centenary Rural Trust for not considering the re-employment of the claimant even after rendering service for more than 5 years is just and fair? If so its effect.
2. Whether the claimant comes within the category of the workman as defined in section 2(S) of the ID Act.
3. To what relief the workman is entitled to.

On behalf of the claimant he examined himself as WW1 and placed certain documents which were marked in a series of WW1/1 to WW1/23. These documents include the vacancy advertisement the appointment letter, several representations made by the claimant demanding equal pay at par with the regular employees of the Bank, the last contract renewal letter, the Government circulars relating to minimum wage payable to casual workers and the letter of the management asking the workman to renew his contract, order of the Hon'ble High Court of the Allahabad etc. On the other hand the management examined the project director of PNB Centenary Rural Development Trust as MW1. The witness also produced some documents which were marked as MW1/1 to MW1/10. In addition to this the claimant also confronted the management witness with certain documents.

At the outset of the argument the Ld. A/R for the workman submitted that despite the order passed by the Hon'ble High Court of Allahabad the management of PNB Centenary Rural Development Trust Saharanpur refused to accept the candidature of the claimant for re-employment as Peon even though he had rendered 12 years of continuous service for the management. This refusal amounts to unfair labour practice and the claimant is entitled to the relief sought in the claim petition.

In the reply argument the Ld. A/R for the management submitted that the Hon'ble High Court of Allahabad have already decided that the employment of the workman was purely contractual in nature and renewable from time to

time. While disposing the writ petition the Hon'ble High Court never issued a direction for continuance of the service of the claimant. Rather observed that the contractual employment having a particular life span need to be renewed and once no renewal proceeding has been undertaken, the action taken by the management cannot be faulted. That being the view of the Hon'ble High Court's decision, nothing more is left to be adjudicated in this proceeding and thereby he argued for dismissal of the claim.

## FINDINGS

### ISSUE No. 1

By examining himself as WW1 and by producing a documents marked as WW1/12, WW1/10 and WW1/14 the workman has stated that demanding equal pay scale and regularization of service writ was filed by him and other co-workers before the Hon'ble High Court of Allahabad and the management contested the same. He was appointed initially on 11.10.2000 on temporary basis. His employment continued upto 10.09.2012 as such. Though his employment was initially temporary in nature, the same was never renewed year to year except on one occasion i.e. in the year 2009. As per that renewal letter the engagement was renewed for one year w.e.f. 07.12.2009 for a period ending 06.12.2010. After that no steps were ever taken by the management for annual renewal of his employment. Being annoyed by the writ petition filed by him the management on 15.12.2011 by letter marked as WW1/10 directed the workman to produce documents of academic and technical qualification within 3 days from the date of this notice failing which the matter shall be referred to the higher authorities. On receipt of the said notice the claimant gave a reply requesting that the matter is pending before the Hon'ble High Court and the authorities must wait for the decision. But the management again on 01.08.2012 vide a letter marked as WW1/12 made a further communication asking. The workman to get the contract renewed on a proposed salary of Rs. 6000/- per month giving ultimatum that if the contract is not renewed within 30 days of the notice no further correspondence will be made. In reply to that notice the workman represented that the matter is subjudice before the Hon'ble High Court Allahabad and the management should wait for the verdict. That letter of the workman dated 23.08.2012 has been marked as WW1/13. Soon after the receipt of the said reply the management by its letter dated 10.09.2012 marked as WW1/14 terminated the service of the workman w.e.f. 10.09.2012 and being aggrieved by the same the Industrial Dispute was raised.

All these documents filed by the workman have been admitted by the management with explanation that the engagement of the workman was purely temporary in nature and renewable from time to time. The workman since did not opt for renewal of his contract despite service of the notice, the management rightly took a decision for his disengagement. The Ld. A/R representing the management has filed a copy of the profile of PNB Centenary Rural Development Trust and declaration of trust marked as MW1/6. This declaration deals with affairs and mode of management of the same by the Trust. As per the terms and conditions contemplated therein the trust has the power of making appointment of contractual staff for implementation of its schemes. A document has also been placed on record which is the appointment letter of the claimant and this letter clearly shows that the appointment of the workman was purely temporary in nature initially for a period of 1 year and the renewable subject to fulfillment of all the terms and conditions etc. It is an admitted fact by both the parties that the appointment was last renewed in the year 2009. It is also admitted that the claimant had filed writ petition No. 75503 of 2011 before the Hon'ble High Court of Allahabad claiming pay and other service benefits at par with the regular employees of PNB and during pendency of that writ petition the service of the claimant was terminated on 10.09.2012. The workman has argued that there was no renewal year after year as claimed by the management and as a vindicated action on the pretext of renewal his service was terminated.

But the documents like the appointment letter placed on record by both the parties clearly shows that the appointment was against the post created under the trust which was purely temporary and initially for a period of one year renewable thereafter. Why the contract was not renewed every year is not the subject matter of adjudication in this dispute. The dispute relates to the decisions of the management in not renewing the service of the workman after 10.09.2012. The management has explained that the Hon'ble High Court in its order dated 20.11.2012 passed in WPC No. 75503/2011 have clearly held that once the appointment is purely contractual and the contract has fixed the life span of the employment the same is required to be renewed time to time. The Hon'ble High Court have also held that even if the petitioners have over stayed for some time without renewal of the contract the same would not confer an indefeasible right on the petitioner to claim continuance with the trust in question. Not only that the Hon'ble Court have also held in

the same order that when the petitioner was asked to take steps for renewal and he failed to do so, it cannot be held that the management trust had not acted fairly by terminating the service of the claimant workman.

In the oral evidence the workman during cross examination has admitted that he was served with a notice by the management for renewal of the contract of his employment vide letter dated 15.12.2011 and 01.08.2012. A last and final notice was served on him for renewal of his contract. It has also been admitted that instead of doing so the workman made correspondence with the management requesting to wait for the final verdict of the Hon'ble High Court. Thus, from the circumstances it clearly appears that the appointment of the workman as per his contract of appointment was purely temporary in nature and the same was required to be renewed on periodical intervals. When the management wanted the workman to take steps for renewal and he did not comply with the direction, a final notice was served on him giving 30 days time to perform his part for renewal of the contract. On that occasion also the workman failed to comply and as a consequence thereof his service was terminated vide letter dated 10.09.2012 marked as WW1/14. These facts based on record have been confirmed by the management witness in his oral testimony. At this juncture it is pertinent to refer to the judgment of the Hon'ble High Court of Allahabad vide order dated 20.11.2012 passed in WPC No. 75503/2011. In the said order the Hon'ble High Court have held in clear term that the appointment of the claimant, was temporary in nature and purely contractual prescribing a particular life span. That contract was not renewed regularly having the effect of over staying of the claimant for some time. But that would not confer a right automatically on the claimant for further continuance in the job.

As evident from evidence both oral and documentary the management trust had asked the workman several times to take steps for renewal of his contract. On one occasion a 30 days notice for the purpose was also given as a last opportunity. As admitted by the claimant he never complied with the direction leading to passing of the order of termination dated 10.09.2012. Thus, the action of the management in not renewing the contract of employment of the workman cannot be found with fault.

The reference has been received for adjudication on the correctness of the decision of the project director in not considering the re-employment of claimant since he had rendered the service for more than 5 years. In his oral statement the claimant has stated that the Hon'ble High Court in its order dated 20.11.2012 had directed the management to consider the request of the workman, deal and decide the same in accordance with law preferably within next two months keeping it open for the management to decide acceptance or non acceptance of his candidature. The workman in his oral statement has stated that when he made application to the management the same was arbitrarily rejected.

The witness examined by the management as MW1 has stated that after termination of contract of the workman a fresh advertisement was issued in the Local Newspaper on 14.02.13 to fillup the vacant post. The claimant was aware of the said advertisement. The said vacant posts were re-advertised on 16.07.2014. The claimant when made application for his re-employment he was intimated vide letter dated 06.02.2013(MW1/8), 25.02.2013(MW1/9) and letter dated 21.07.2014 (MW1/10) to apply properly pursuant to the said advertisement. The workman has not adduced oral or documentary evidence to prove that pursuant to the advertisement application was submitted by him. During course of argument the Ld. A/R for the claimant submitted that as per the direction of the Hon'ble High Court the management should have considered his employment against the vacant post instead of making fresh advertisement. This argument advanced on the behalf of the claimant finds no support from the judgment of the Hon'ble High Court where in the management was given liberty to consider the candidature of the claimant according to rule and procedure. In the said order the Hon'ble High Court had also kept open for the management to decide the continuance and non continuance of the claimant for the post. Hence, when the management decided to issue fresh advertisement for the vacancy and informed the claimant to apply for the same, and when there is no evidence to believe that any application was submitted by him but not considered by the management, it cannot be held that the action of the management in not considering his re-employment as a Peon was illegal or improper. This issue is accordingly decided against the workman.

## **ISSUE No.2**

The management in its WS has stated that the PNB Centenary Rural Development Trust is not an industry and the claimant is not a workman as defined u/s 2(S) of the ID Act. This issue was never seriously pursued by the parties during the course of adjudication. The law is well settled that industry means any business, trade, undertaking, manufacture or calling of employees and includes any calling, service, employment, handcraft, or industrial occupation or avocation of workmen. In that view of the matter the activities undertaken by the management Trust very well falls

within the definition of Industry. The Industrial Dispute Act also defines the workman which includes any person employed in any Industry to do any manual unskilled skilled or technical work for hire or reward etc. The claimant since engaged as a Peon is a workman under the definition given in the Industrial Dispute Act 1947. This issue is accordingly decided in favour of the claimant.

### **ISSUE No.3**

In view of the finding given in issue no.1 the claimant is held not entitled to any relief as sought by him. Hence, ordered.

### **ORDER**

The reference be and the same is answered against the claimant and it is held that the claimant is not entitled to any relief as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Smt. PRANITA MOHANTY, Presiding Officer

15<sup>th</sup> November, 2019

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2231.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 115/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/118/2011-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2231.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2, New Delhi* as shown in the Annexure, in the industrial dispute between the management of *Punjab National Bank*, and their workmen, received by the Central Government on 23.12.2019.

[No. L-12012/118/2011-IR(B-II)]

SEEMA BANSAL, Section Officer

### **ANNEXURE**

#### **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

**Present:** Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

#### **INDUSTRIAL DISPUTE CASE NO. 115/2012**

#### **Date of Passing Award- 14<sup>th</sup> November, 2019**

#### **Between:**

Shri Dharamveer Singh,  
S/o Shri Hari Singh,  
R/o Village: Saloni, P.O: Deoband,  
Distt: Saharanpur (U.P)

...Workman

#### **Versus**

The Manager,  
Punjab National Bank,  
V& P.O. Baastam,  
Distt. Saharanpur (U.P)

...Management



**Appearances:-**

Shri Sidharat Joshi, (A/R)	For the Workman
Shri Rajat Arora, (A/R)	For the Management

**AWARD**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Punjab National Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/118/2011 (IR(B-II) dated 13.04.2012 to this tribunal for adjudication to the following effect.

“Whether the action of the management of Punjab National Bank in terminating the services of Shri Dharamveer Singh w.e.f 27.02.2011 without complying with section 25-F of the ID Act 1947, is legal and justified? What relief the concerned workman is entitled to?”

The claimant in his claim statement has stated that he was appointed as a Business Facilitator by the respondent Bank in its office at Bastam in the district of Saharanpur w.e.f. 08.06.2010. Though he was discharging his duty to the utmost satisfaction of the employer, the later without assigning any reason and without following the procedure laid down under law terminated his service illegally on 26.02.2011. At the time of termination neither the notice, notice pay or termination compensation was paid to him. During the period of engagement he had completed 240 days of continuous work for the Bank thereby attaining the status of a temporary workman. During the course of employment he was neither served with any charge sheet nor any domestic inquiry was conducted against him. For such termination he became unemployed and finding no other remedy served a demand notice on the management. A dispute being raised by him before the conciliation officer steps were taken for conciliation. The same since failed the Appropriate Government referred the matter to this tribunal for adjudication. In the claim statement the claimant has also stated that he was the employee of the employer i.e. the management Bank and for the illegal termination he is entitled to reinstatement with all the Back wages.

The management Bank being noticed entered appearance and filed written statement refuting the stand of the workman. While denying the employer employee relationship between the Bank and the workman as claimed by the later, the respondent pleaded that the bank had launched the scheme for expansion of Banking services by using the service of facilitators. The sole purpose of the scheme was to reach out the customers staying at a distant place. The Business facilitators for the purpose were engaged pursuant to an agreement signed between them and the bank management. That was an agreement in terms of principal to principal for a duration of one year. In that process the claimant was engaged as a facilitator w.e.f. 08.06.2010. His performance was not upto the satisfaction and thus on the advice of the Circle office his engagement was brought to an end. While admitting that the claimant was disengaged w.e.f. 26.02.2011 the management has stated that there never existed any relationship of master and servant between the bank and the claimant. Neither he was getting salary from the bank or any other service benefit. His engagement was for incentive proportionate to the work done by him which was clearly indicated in the agreement and in the financial inclusion circular No. 2 of 2009 dated 15<sup>th</sup> June 2009. The Bank was never having supervision or control over the working of the claimant who was free to do the job according to his suitability. It is the specific stand of the management that the claimant not being a workman as defined u/s 2(S) of the Industrial dispute Act is not entitled to the benefits of section 25(f) of the ID Act thereby the management has pleaded for dismissal of the claim advanced by the workman.

Workmen Filed rejoinder denying the stand taken by the management.

On the rival pleadings the following issues were framed for adjudication.

**ISSUES**

1. Whether the claimant is a workman within the meaning of section 2(s) of the ID Act 1947.
2. As in terms of reference.

The claimant examined himself as WW1 and filed the copy of the demand notice and postal receipt of the same as WW1/1 to WW1/3. In addition to the same the claimant has filed a photocopy of a document appearing to be the attendance register of Punjab National Bank for the period June 2010 to February 2011 in which a serial no.8 the name of the claimant Dharamveer Singh has been mentioned describing him as a business facilitator in which he had put his signature on daily basis alongwith other employees of the bank. The documents filed by the workman has not been disputed by the management Bank. However the workman was cross examined at length by the management during which he admitted that pursuant to an agreement he was appointed for a period of 9 months. He also admitted that no salary slip was ever given to him like the other regular employees of the bank. On the other hand the management examined one of its branch manager as MW1 who filed 19 documents including the financial inclusion circular No.2 of

2009, the application and other documents submitted by the claimant for his engagement as business facilitator. On behalf of the management some documents have been filed containing work responsibility of the Business facilitator and the rate of incentive to be paid to them. Some other documents have also been placed on record which are the correspondences made between the Branch of the Bank at Bastam in the district of Saharanpur with the circle office at muzafarnagar with regard to non performance of the claimant Dharamveer Singh recommending deletion of his name from the list of Business facilitator for the allegations received against him. A letter has been placed on record as exhibit MW1/18 issued by the circle office on 18.02.11 directing deletion of the name of the claimant and surrender of his identity card. The management witness was also cross examined at length by the claimant.

### FINDINGS

#### Point No.1

While filing the written statement the management challenged the maintainability of the proceeding on ground that the claimant is not a workman within the definition of 2(S) of the ID Act. It is admitted by both the parties that the claimant was engaged under an agreement and was entitled to get incentive for the amount of work done by him. The definition of the workman as laid down u/s 2(S) of the Act means any person including an apprentice employed in any industry to do any manual, unskilled, skilled, clerical, or supervisory work for higher or reward. But here is a case where the claimant has clearly admitted during cross examination that he was not getting salary from the bank. No document has been placed on record by the workman to show that in lieu of the work done by him he was getting remuneration from the bank. On the contrary the management witness during cross examination admitted that the claimant was never submitting his bill for commission since he was not discharging any duty assigned to him. On the background of the admitted facts that pursuant to a scheme launched by the Bank management for expansion of its business some persons were engaged as facilitators and the workman was such a facilitator who was disengaged for his underperformance, it is held that the claimant is not a workman within the meaning of section 2(S) of the ID Act.

#### Point No.2

The reference has been received to adjudicate if the termination of the service of the claimant without complying section 25F of the ID Act is legal and to what relief he is entitled to. In the preceding paragraph it has already been held that the claimant is not a workman. The witness examined by the management on the basis of the documents filed by him has stated that the agreement between the claimant and the bank was in term of principal to principal and there never existed any employer employee relationship between them. No evidence has been adduced by the claimant to counter the same. Rather he has admitted about his appointment through agreement. In view of the evidence both oral or documentary it is concluded that there being no employer and employee relationship between the bank and the claimant, disengagement of the claimant w.e.f. 27.02.2011 cannot be held illegal for non compliance of section 25F of the ID Act as the same is not applicable to the claimant. Accordingly it is held that the claimant is not entitled to the relief of reinstatement, back wages and continuity of service as claimed by him. Hence, ordered.

### ORDER

The reference be and the same is accordingly answered against the claimant and it is held that the claimant is not entitled to the relief of reinstatement, back wages, and continuity of service as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Smt. PRANITA MOHANTY, Presiding Officer

14<sup>th</sup> November, 2019

नई दिल्ली, 23 दिसम्बर, 2019

**का.आ. 2232.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 19/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/11/2014-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 23rd December, 2019

**S.O. 2232.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, New Delhi as shown in the Annexure, in the industrial dispute between the management of *Punjab National Bank*, and their workmen, received by the Central Government on 23.12.2019.

[No. L-12012/11/2014-IR(B-II)]

SEEMA BANSAL, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

**Present:** Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

**INDUSTRIAL DISPUTE CASE NO. 19/2014****Date of Passing Award- 15<sup>th</sup> November, 2019****Between:**

Shri Rajneesh Kumar,  
S/o Shri Umesh Chand,  
R/o Vill Matki Jharoli, PO. Ghunna,  
Saharanpur (U.P)

...Workman

**Versus**

1. Project Director,  
Punjab National Bank Shatabdi Gramin Vikas Nyas,  
Matki-Jharauli, Distt- Saharanpur  
Saharanpur (U.P)
2. Chairman Punjab National Bank,  
C/o Shatabdi-Gramin Vikas Nyas 3<sup>rd</sup> Floor,  
Atmaram House-1, Tolstory Marg,  
New Delhi- 110001.

...Managements

**Appearances:-**

Shri Sidharat Joshi, (A/R) For the Workman

Shri Rajat Arora, (A/R) For the Managements

**AWARD**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Punjab National Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/11/2014 (IR(B-II)) dated 03.03.2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of PNB Centenary Rural Development Trust, Saharanpur through its Project Director for not considering the re-employment of Shri Rajneesh, Sweeper even after rendering the services more than 5 year service is just and fair if not to what relief the workman is entitled to and from which date?”

On receipt of the reference both the claimant and management were noticed. The claimant filed the claim statement stating therein that on 07.12.1992 the board of Directors of PNB took a decision for creation of a Trust under the name of “PNB Centenary Rural Development Trust” for undertaking Rural Development Projects and implementing the same from funds received from National Fund for Rural Development. The said Trust established the project for soil testing and artificial insemination Centre (veterinary Hospital) at Matki Jharoli in District of Saharanpur with a project Director as the head of the Activities. In the year 2000 advertisement was issued in the newspaper by the management no.1 for appointment to various posts. The claimant applied for the same and was selected for the post of Sweeper. An appointment letter was issued to him on 11.10.2000 for the period of 1 year on consolidated salary of Rs. 500/- per

month. The said temporary employment was renewed year after year and in the year 2009 the claimant was paid the consolidated salary of Rs. 1900/- per month. His employment continued upto 10.09.2012 after which the same was not renewed. Though the workman continued in the employment for about a decade, he was not getting the benefit like the regular employee of the Bank. He was very often demanding the same and the workman continued to get fixed monthly salary despite the fact that the PNB had sanctioned the specific post in regular pay scale for running the project. All the representations made by the workman demanding regular pay scale as admissible to the other employees of PNB were kept out of the consideration. In the year 2007 the management implemented the minimum wage notified by the state of U.P under the provision of Minimum Wage Act. However the said practice was discontinued in the year 2009 and instead a consolidated amount of Rs. 1900/- he was paid Rs. 1500/-. Being aggrieved by the demand of the claimant for the pay scale at par with U.P State Government the management terminated his service w.e.f. 10.09.2012 and while doing so never complied the provision of section 25-F, G, and H of the ID Act. Writ petition was filed by the claimant before the Hon'ble High Court of Allahabad praying regularization of his service and revised pay scale of U.P State Government. Though the management was fully aware about the pendency of the writ petition, issued a letter on 01.08.2012 asking the workman to make application for renewal of his contract within 3 days. Though, the claimant complied the same the management took a plea of non receipt of the same and ultimately terminated his service w.e.f. 10.09.2012. The representation made by the claimant for reconsideration of the order dated 10.09.2012 was rejected. Finding no other way he raised Industrial Dispute before the conciliation officer alleging that the termination of service tantamounts to retrenchment within the meaning of section 2(OO) of the ID Act and the claimant having completed 240 days of work in a calendar year is entitled to the benefits of section 25-F, G, and H of the ID Act. Though the conciliation proceeding was taken up and the management participated in the same it could not yield any result. On receipt of failure report the Appropriate Government referred the matter for adjudication.

The management No.1, 2 jointly filed WS refuting the stand of the claimant. The specific plea taken by the management in the WS is that the claimant was never an employee of the management Bank. A trust was created having the name PNB Centenary Rural Development Trust to undertake activities like soil testing artificial insemination, treatment of animals, computer training, sewing training etc. The claimant was engaged on contractual basis for one year w.e.f. 16.10.2000 and the contract was renewed every year for further period of one year upto 07.12.2009. After 2009 the claimant continued in the job without the contract being renewed. On 01.08.2012 the claimant was asked to renew the contract of employment within 30 days from the date of receipt of the notice failing which it would be presumed that the claimant is not interested to continue with PNB centenary Rural Trust. Since the claimant failed to renew the contract he was disengaged from the trust by letter dated 10.09.2012. It is the further stand of the management that the provisions of section 25-F of the ID Act is not applicable to the workman since he is not a workman within the definition of section 2(S) of the ID Act. It has also been pleaded that the grievance of the claimant for non compliance of the provisions of section 25-F of the ID Act cannot be adjudicated as the same is not within the scope of the reference received from the appropriate government. While pleading that the reference is for adjudication regarding the refusal of the reemployment of the claimant by the management all other stand taken by him regarding equal pay scale and non compliance of section 25-F are not tenable. While taking a stand as per the observation of the Hon'ble High Court of Allahabad the management has pleaded that the appointment of petitioner was purely contractual as has been held by the Hon'ble High Court and since the claimant failed to submit an application for renewal of his contract, his disengagement was rightly done. With such assertion the management has pleaded for dismissal of the claim.

On these rival pleadings following issues were framed for adjudication.

#### ISSUES

1. Whether the action of the management PNB Centenary Rural Trust for not considering the re-employment of the claimant even after rendering service for more than 5 years is just and fair? If so its effect.
2. Whether the claimant comes within the category of the workman as defined in section 2(S) of the ID Act.
3. To what relief the workman is entitled to.

On behalf of the claimant he examined himself as WW1 and placed certain documents which were marked in a series of WW1/1 to WW1/23. These documents include the vacancy advertisement the appointment letter, several representations made by the claimant demanding equal pay at par with the regular employees of the Bank, the last contract renewal letter, the Government circulars relating to minimum wage payable to casual workers and the letter of the management asking the workman to renew his contract, order of the Hon'ble High Court of the Allahabad etc. On the other hand the management examined the project director of PNB Centenary Rural Development Trust as MW1. The witness also produced some documents which were marked as MW1/1 to MW1/10. In addition to this the claimant also confronted the management witness with certain documents.

At the outset of the argument the Ld. A/R for the workman submitted that despite the order passed by the Hon'ble High Court of Allahabad the management of PNB Centenary Rural Development Trust Saharanpur refused to accept the candidature of the claimant for re-employment as Sweeper even though he had rendered 12 years of continuous service for the management. This refusal amounts to unfair labour practice and the claimant is entitled to the relief sought in the claim petition.

In the reply argument the Ld. A/R for the management submitted that the Hon'ble High Court of Allahabad have already decided that the employment of the workman was purely contractual in nature and renewable from time to time. While disposing the writ petition the Hon'ble High Court never issued a direction for continuance of the service of the claimant. Rather observed that the contractual employment having a particular life span need to be renewed and once no renewal proceeding has been undertaken, the action taken by the management cannot be faulted. That being the view of the Hon'ble High Court's decision, nothing more is left to be adjudicated in this proceeding and thereby he argued for dismissal of the claim.

## FINDINGS

### ISSUE No. 1

By examining himself as WW1 and by producing a documents marked as WW1/12, WW1/10 and WW1/14 the workman has stated that demanding equal pay scale and regularization of service writ was filed by him and other co-workers before the Hon'ble High Court of Allahabad and the management contested the same. He was appointed initially on 11.10.2000 on temporary basis. His employment continued upto 10.09.2012 as such. Though his employment was initially temporary in nature, the same was never renewed year to year except on one occasion i.e. in the year 2009. As per that renewal letter the engagement was renewed for one year w.e.f. 07.12.2009 for a period ending 06.12.2010. After that no steps were ever taken by the management for annual renewal of his employment. Being annoyed by the writ petition filed by him the management on 15.12.2011 by letter marked as WW1/10 directed the workman to produce documents of academic and technical qualification within 3 days from the date of this notice failing which the matter shall be referred to the higher authorities. On receipt of the said notice the claimant gave a reply requesting that the matter is pending before the Hon'ble High Court and the authorities must wait for the decision. But the management again on 01.08.2012 vide a letter marked as WW1/12 made a further communication asking. The workman to get the contract renewed on a proposed salary of Rs. 6000/- per month giving ultimatum that if the contract is not renewed within 30 days of the notice no further correspondence will be made. In reply to that notice the workman represented that the matter is subjudice before the Hon'ble High Court Allahabad and the management should wait for the verdict. That letter of the workman dated 23.08.2012 has been marked as WW1/13. Soon after the receipt of the said reply the management by its letter dated 10.09.2012 marked as WW1/14 terminated the service of the workman w.e.f. 10.09.2012 and being aggrieved by the same the Industrial Dispute was raised.

All these documents filed by the workman have been admitted by the management with explanation that the engagement of the workman was purely temporary in nature and renewable from time to time. The workman since did not opt for renewal of his contract despite service of the notice, the management rightly took a decision for his disengagement. The Ld. A/R representing the management has filed a copy of the profile of PNB Centenary Rural Development Trust and declaration of trust marked as MW1/6. This declaration deals with affairs and mode of management of the same by the Trust. As per the terms and conditions contemplated therein the trust has the power of making appointment of contractual staff for implementation of its schemes. A document has also been placed on record which is the appointment letter of the claimant and this letter clearly shows that the appointment of the workman was purely temporary in nature initially for a period of 1 year and the renewable subject to fulfillment of all the terms and conditions etc. It is an admitted fact by both the parties that the appointment was last renewed in the year 2009. It is also admitted that the claimant had filed writ petition No. 75503 of 2011 before the Hon'ble High Court of Allahabad claiming pay and other service benefits at par with the regular employees of PNB and during pendency of that writ petition the service of the claimant was terminated on 10.09.2012. The workman has argued that there was no renewal year after year as claimed by the management and as a vindicated action on the pretext of renewal his service was terminated.

But the documents like the appointment letter placed on record by both the parties clearly shows that the appointment was against the post created under the trust which was purely temporary and initially for a period of one year renewable thereafter. Why the contract was not renewed every year is not the subject matter of adjudication in this dispute. The dispute relates to the decisions of the management in not renewing the service of the workman after 10.09.2012. The management has explained that the Hon'ble High Court in its order dated 20.11.2012 passed in WPC No. 75503/2011 have clearly held that once the appointment is purely contractual and the contract has fixed the life span of the employment the same is required to be renewed time to time. The Hon'ble High Court have also held that even if the petitioners have over stayed for some time without renewal of the contract the same would not confer an indefeasible right on the petitioner to claim continuance with the trust in question. Not only that the Hon'ble Court have also held in

the same order that when the petitioner was asked to take steps for renewal and he failed to do so, it cannot be held that the management trust had not acted fairly by terminating the service of the claimant workman.

In the oral evidence the workman during cross examination has admitted that he was served with a notice by the management for renewal of the contract of his employment vide letter dated 15.12.2011 and 01.08.2012. A last and final notice was served on him for renewal of his contract. It has also been admitted that instead of doing so the workman made correspondence with the management requesting to wait for the final verdict of the Hon'ble High Court. Thus, from the circumstances it clearly appears that the appointment of the workman as per his contract of appointment was purely temporary in nature and the same was required to be renewed on periodical intervals. When the management wanted the workman to take steps for renewal and he did not comply with the direction, a final notice was served on him giving 30 days time to perform his part for renewal of the contract. On that occasion also the workman failed to comply and as a consequence thereof his service was terminated vide letter dated 10.09.2012 marked as WW1/14. These facts based on record have been confirmed by the management witness in his oral testimony. At this juncture it is pertinent to refer to the judgment of the Hon'ble High Court of Allahabad vide order dated 20.11.2012 passed in WPC No. 75503/2011. In the said order the Hon'ble High Court have held in clear term that the appointment of the claimant, was temporary in nature and purely contractual prescribing a particular life span. That contract was not renewed regularly having the effect of over staying of the claimant for some time. But that would not confer a right automatically on the claimant for further continuance in the job.

As evident from evidence both oral and documentary the management trust had asked the workman several times to take steps for renewal of his contract. On one occasion a 30 days notice for the purpose was also given as a last opportunity. As admitted by the claimant he never complied with the direction leading to passing of the order of termination dated 10.09.2012. Thus, the action of the management in not renewing the contract of employment of the workman cannot be found with fault.

The reference has been received for adjudication on the correctness of the decision of the project director in not considering the re-employment of claimant since he had rendered the service for more than 5 years. In his oral statement the claimant has stated that the Hon'ble High Court in its order dated 20.11.2012 had directed the management to consider the request of the workman, deal and decide the same in accordance with law preferably within next two months keeping it open for the management to decide acceptance or non acceptance of his candidature. The workman in his oral statement has stated that when he made application to the management the same was arbitrarily rejected.

The witness examined by the management as MW1 has stated that after termination of contract of the workman a fresh advertisement was issued in the Local Newspaper on 14.02.13 to fillup the vacant post. The claimant was aware of the said advertisement. The said vacant posts were re-advertised on 16.07.2014. The claimant when made application for his re-employment he was intimated vide letter dated 06.02.2013(MW1/8), 25.02.2013(MW1/9) and letter dated 21.07.2014 (MW1/10) to apply properly pursuant to the said advertisement. The workman has not adduced oral or documentary evidence to prove that pursuant to the advertisement application was submitted by him. During course of argument the Ld. A/R for the claimant submitted that as per the direction of the Hon'ble High Court the management should have considered his employment against the vacant post instead of making fresh advertisement. This argument advanced on the behalf of the claimant finds no support from the judgment of the Hon'ble High Court where in the management was given liberty to consider the candidature of the claimant according to rule and procedure. In the said order the Hon'ble High Court had also kept open for the management to decide the continuance and non continuance of the claimant for the post. Hence, when the management decided to issue fresh advertisement for the vacancy and informed the claimant to apply for the same, and when there is no evidence to believe that any application was submitted by him but not considered by the management, it cannot be held that the action of the management in not considering his re-employment as a Sweeper was illegal or improper. This issue is accordingly decided against the workman.

## **ISSUE No.2**

The management in its WS has stated that the PNB Centenary Rural Development Trust is not an industry and the claimant is not a workman as defined u/s 2(S) of the ID Act. This issue was never seriously pursued by the parties during the course of adjudication. The law is well settled that industry means any business, trade, undertaking, manufacture or calling of employees and includes any calling, service, employment, handcraft, or industrial occupation or avocation of workmen. In that view of the matter the activities undertaken by the management Trust very well falls within the definition of Industry. The Industrial Dispute Act also defines the workman which includes any person employed in any Industry to do any manual unskilled skilled or technical work for hire or reward etc. The claimant since engaged as a Sweeper is a workman under the definition given in the Industrial Dispute Act 1947. This issue is accordingly decided in favour of the claimant.

## **ISSUE No.3**

In view of the finding given in issue no.1 the claimant is held not entitled to any relief as sought by him. Hence, ordered.

**ORDER**

The reference be and the same is answered against the claimant and it is held that the claimant is not entitled to any relief as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2233.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एअर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या 15/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-11012/2/2007-आईआर (सीएम-1)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 26th December, 2019

**S.O. 2233.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi (Ref. No. 15/2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India Limited and their workmen, which was received by the Central Government on 26.12.2019.

[No. L-11012/2/2007-IR(CM-I)]

S. C. RAY, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

**Present:** Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi

**INDUSTRIAL DISPUTE CASE NO. 15/2008**

**Date of Passing Award- 14<sup>th</sup> November, 2019**

**Between:**

Shri Ashok Kumar Kaushik,  
S/o Late Shri H.R. Kaushik,  
Air Craft Engineer  
R/o 28, Sector- 22-A, Chandigarh

...Workman

**Versus**

Chairman-cum-Managing Director,  
Air India Limited,  
IGI Airport Terminal-I,  
113, Gurudwara Rakabganj Road,  
New Delhi.

... Management

**Appearances:-**

Shri Saurabh Rastogi, (A/R) For the Workman.  
Shri Gautam Dutta, (A/R) For the Management

**AWARD**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Air India Limited, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-11012/2/2007 (IR(CM-1) dated 28.04.2008 to this tribunal for adjudication to the following effect.

“Whether the action of the management of M/s. Air India Limited New Delhi in separating Shri Ashok Kumar Kaushik, Air Craft Engineer from the service w.e.f. 12.12.2002 is justified and legal? If not, to what relief is the concerned workman entitled?”

On receipt of reference from the Appropriate Government both the parties were noticed. The claimant filed the claim statement stating therein that he was appointed as a Trainee Engineer with Indian Airlines w.e.f. 03.08.1987. On successful completion of the training he was designated as the Assistant Aircraft Engineer w.e.f. 03.08.1988 and became a permanent employee of Indian Airlines from that date. In course of his employment he was promoted as Aircraft Engineer w.e.f. December 1992 and was confirmed in the post w.e.f. 02.12.1994. While he was discharging his duties diligently as a confirmed employee of Indian Airlines Limited, on 31.10.1998 the General Manager Engineering of Indian Airlines illegally directed him to obtain a clearance from the Panel Psychiatrist latest by 07.11.1998 failing which he shall not be taken on duty. Being aggrieved by the said direction the claimant challenged the said order of General Manager before the Hon'ble High Court of Delhi by filing Writ petition No. 6129/1998. But the management stopped paying salary to the claimant w.e.f. 07.11.1998. For the intervention of the Hon'ble High court by order dated 16.11.1999 passed in LPA No. 280/1999 the management paid him an amount of Rs. 50,000/- in lumpsum as subsistence allowance. Having faced difficulty in managing the family without salary the claimant was forced to shift his establishment from Delhi to his native place Chandigarh. While he was managing with great financial difficulty due to unemployment, on 09.4.2002 the Hon'ble High Court of Delhi passed an order directing Indian Airlines to take back the claimant on duty. Before that order by the order of the Hon'ble High Court, the claimant had appeared before a medical board constituted in AIIMS and was found fit to join his duty.

Pursuant to the order of the Hon'ble High Court the claimant reported for duty on 07.06.2002. But for desperation, on the next date i.e. on 08.06.2002 submitted his resignation. However, before acceptance of that resignation he promptly withdrew the same by letter dated 12.06.2002. On the same day i.e. on 12.06.2002 he submitted another application for leave without pay from 12.06.2002 to 31.03.2003 i.e. for a period of 10 months mentioning therein that if it is not possible to grant him leave, that may be treated as a notice for resignation from service after 6 months there from. This letter was received in the diary section of the management on 12.06.2002. The General Manager on receipt of the letter declined to grant him 10 months long leave without pay and a communication to that effect was made to the claimant. Thereafter the claimant while superseding the earlier letter dated 12.06.2002 requested for leave without pay for a period of 6 months i.e. from 12.06.2002 to 12.12.2002 and in the said letter he had not mentioned anything about the intention to resign. The General Manager engineering by his letter dated 19.06.2002 informed the claimant that leave without pay as requested cannot be sanctioned. The problem of the claimant in getting his daughter admitted in a school in Delhi during midsession i.e. in the month of June was not considered while rejecting his representation for leave. When the claimant was preparing to approach the higher authorities of Indian Airlines for grant of 6 months leave without pay in his favour suddenly he was informed vide letter dated 16.08.2002 issued by the management, that his resignation has been accepted and the claimant shall cease to be on the payroll of the opposite party w.e.f. 12.12.2002. This decision was taken by the management when no representation of the workman for resignation was pending before the management since his application dated 12.06.2002 for 10 months leave and in alternate notice for resignation was not accepted by the management and superseding the same the claimant had filed another application on the same day requesting 6 months leave without pay in which there was no mention about resignation. Not only that even if it is believed that a notice for resignation was given by the claimant, the management acted illegally in accepting the resignation before the expiry of the notice period. Being aggrieved by the decision of the management he raised an Industrial Dispute before the Labour Commissioner where a conciliation proceeding was initiated. On failure of conciliation the appropriate government made a reference for adjudication.

In response to the notice the management appeared and filed WS. When the reference was received it was in the name of Indian Airlines Limited as the respondent. An application being moved by the management the name of the respondent was changed from Indian Airlines Limited to National Aviation Company of India and again to Air India Limited.

In its WS the management has stated that the claimant had voluntarily resigned from the service of the management w.e.f. 12.12.2002 after giving a 6 months' notice vide his letter dated 12.06.2002 which was accepted by the management vide letter dated 16.08.2002. The resignation by the order of the management was made effective from 12.12.2002 as desired by the claimant. While supporting the action of the management it has been pleaded that the claimant was initially appointed as an Assistant Aircraft Engineer and promoted to the post of Aircraft Engineer on 01.12.1992. He was found unfit to carry out and discharge the duties of an aircraft Engineer and as such he was posted in the Accessories Overhaul Centre to maintain records of the Certification process. But the conduct of the claimant was a cause of annoyance for others and several complaints were received. On 23<sup>rd</sup> October 1998 the General Manager Engineering informed about the receipt of photocopies of some medical investigation reports from the claimant which were vague and without significance. On the advice of the General Manager (Engineering) the claimant was directed by a letter dated 24<sup>th</sup> October 1998 to appear before the Senior Manager (Medical) for assessment of his health Condition. Accordingly on 26<sup>th</sup> October, 1998 he appeared before the Senior Manager Medical. On examining him clinically and



also examining his medical records he was advised to visit the Panel Psychiatrist of the management failing which he would not be taken on duty. A letter in that regard was communicated to him on 31.10.1998.

The claimant did not appear before the psychiatrist. On the contrary he challenged the said letter dated 31<sup>st</sup> October 1998 by filing writ petition No. 6129/1998. However that writ petition was disposed as infructuous by order dated 16.07.2008. In the said writ petition the Hon'ble High Court by order dated 20.05.1999 directed the management to pay Rs. 50,000/- to the claimant in a week and also directed the claimant to appear before a medical board constituted in AIIMS. The said order of the Delhi High Court was challenged by the claimant in LPA. However, the claimant was again directed to appear before the medical board. The management paid Rs. 50,000/- to the claimant as directed. The Medical Board found the workman fit to join duty. Being directed by the Hon'ble High Court of Delhi when the management was ready and willing to take the claimant back on duty, he tendered his resignation voluntarily, which was accepted by the management. Though this acceptance order was passed before the expiry of the duty period, the same was made effective from the date as wished by the claimant i.e. after expiry of 6 months notice. Thereby the management has pleaded that no wrong was ever caused to the claimant by the action of the management.

It has also been pleaded by the management that the dispute was being raised by the claimant a conciliation proceeding was taken up where the management appeared and proposed to take back the claimant into employment as a fresh appointee as Aircraft Engineer in the scale of pay of Rs. 6750- 8575/- without back wages or continuity of service subject to he being declared medically fit. But the proposal was not acceptable to the claimant and the conciliation failed. It is the further stand of the management that the claimant during the course of the employment had remained unauthorizedly absent for long and on repeated occasions punishments in terms of warning, stoppage of increment, reduction of basic pay by two stages etc were inflicted on him. With such assertion the management has pleaded for dismissal of the claim.

The claimant filed rejoinder denying the pleadings of the management and stating that all the punishments inflicted by the management were appealed to the higher authorities. No decision has been taken on the same yet by the Authorities.

On the rival pleadings of the parties following issues were framed for adjudication.

#### ISSUES

1. Whether the claimant voluntarily resigned from services of the management on 12.12.2002? if yes, its effects?
2. As in terms of reference.

The claimant examined himself as WW1 and proved the documents like his appointment letter, promotion letter, confirmation letter, order passed by the Hon'ble High Court in LPA No. 280/1999 and WPC No. 6129/1998, the initial resignation letter dated 08.06.2002 the letter withdrawing the same dated 12.06.2002, the other letter dated 12.06.2002 submitted by the claimant requesting 10 months leave without pay and in alternate offering him to resign from service after 6 months, the third letter dated 12.06.2002 requesting sanction of 6 months leave without pay, the letter of the management dated 19.06.2002 refusing to grant 6 months leave without pay and the letter of the management dated 16.08.2002 accepting the resignation of the claimant w.e.f. 12<sup>th</sup> December 2002 after expiry of 6 months notice period etc. These documents have been marked in a series of exhibit WW1/1 to WW1/11. On behalf of the management one Mr. Ashwani Sehgal Senior Assistant General Manager of Air India Limited testified as MW1. He also filed some documents which were marked in a series of MW1/1 to MW1/7. The said documents are the correspondence made by the Senior Manager (Medical) of Air India Limited to the General Manager Engineering regarding the Medical evaluation of the Health condition of the claimant the copies of the order passed by the Hon'ble High Court directing the claimant to appear before the medical board, the letter dated 08.06.2002 of the claimant intending to resign which was rejected by the letter dated 10.06.2002 for want of notice and all the 3 letters submitted by the claimant on 12.06.2002 requesting for leave with conditional resignation letter, the letter of the management refusing grant of 6 months leave without pay and acceptance letter of resignation etc. Other documents have been filed by the management to show that prior to the alleged resignation on several occasions warning were given to the claimant for his underperformance and the direction for counseling and medical evaluation.

The witnesses of both the parties were cross examined at length by the adversaries.

The facts admitted by both the parties are that the claimant was a permanent employee of Air India Limited and was confirmed to the post on 02.12.1994. It is also admitted by both the parties that on 31<sup>st</sup>.10.1998 the management had directed the claimant to get a clearance from the Panel Psychiatrist and the same being challenged before the Hon'ble Delhi High Court, the claimant was again examined by the medical board of AIIMS by the order of the High Court. It is also admitted by both the parties that the claimant since found fit by the said Medical Board of AIIMS the Hon'ble High Court by order dated 09.04.2002 directed the management to take back the claimant on duty. It is not disputed that the claimant joined his duty on 07.06.2002 and tendered his resignation on 08.06.2002. It is also admitted by both the parties

that on 12.06.2002 the claimant withdrew his resignation dated 08.06.2002 and on the same day applied for 10 months leave without pay with a condition that if grant of leave is not possible then that may be treated as a 6 months notice for resignation. Both parties have also admitted that on 12.06.2002 the claimant again submitted an application for 6 months leave without pay instead of 10 months leave without pay as prayed earlier. It is also admitted by both the parties that the management by its order dated 16.08.2002 accepted the resignation offered by the claimant directing that the said resignation will be effected from 12.12.2002 i.e. after expiry of the notice period of 6 months.

The only dispute that remains for adjudication is whether the acceptance of the resignation is legal and justified before expiry of the notice period.

## FINDINGS

### ISSUE No. 1

The claimant in his oral testimony tried to explain by producing the documents marked as WW1/6, WW1/7, WW1/8 and WW1/9 that after joining on 07.06.2002 due to desperation he had tendered the designation on 08.06.2002 but promptly withdrew the same on 12.06.2002 by writing a letter marked as WW1/7. He then wrote another letter on the same day i.e. On 12.06.2002 asking for 10 month leave without pay in alternate giving a notice to resign after 6 months. On the same day he again submitted another letter asking for 6 month leave without pay. This letter has been marked as WW1/9. The Ld. A/R for the workman argued that when the last letter dated 12.06.2002 was submitted asking plain and simple leave for 6 months, that implies that the earlier letter of the claimant for 10 months leave and in alternate 6 months notice for resignation was superseded. The letter containing 6 months notice of the claimant not being an existence the order of the management dated 16.08.2002 accepting the resignation is illegal. He also argued that the management was not authorized to accept the resignation before expiry of 6 months notice period since the said period is meant to give an opportunity to the employee for reconsideration of his decision. When there was a scope for the claimant to withdraw the option for resignation at any time before expiry of notice period the action of the management is illegal.

On behalf of the management reliance has been placed on the document placed on record which is a letter of the management dated 10.06.2002 wherein the claimant was intimated that his intention to resign w.e.f 08.06.2002 cannot be accepted as no employee shall resign without giving 6 months notice in writing to the corporation. The Ld. Counsel thereby argued that the claimant pursuant to this correspondence with drew his letter for resignation dated 08.06.2002 and by another letter dated 12.06.2002 resubmitted his notice for resignation. He was regid about his decision and as such on the same day he first wrote a letter asking 10 months leave without pay with a condition that if leave cannot be granted he shall resign after 6 months from the date of that notice. For reason best known to him on the same day he again wrote a letter modifying the period of leave from 10 months to 6 months. But while writing the third letter on 12.06.2002 he never mentioned about withdrawal of his earlier letter intending to resign after 6 months. Neither the claimant was allowed 10 month leave or 6 months leave without pay as suggested by him and a letter to that effect was communicated to him on 19.06.2002. The copy of that letter has been placed on record. The claimant did not join duty even after receipt of that letter dated 19.06.2002 wherein sanction of leave was disallowed nor withdrew his earlier application giving notice for resignation after 6 months. Thus, the management rightly accepted the resignation by order dated 16.08.2002 wherein it was clearly stated that the resignation of the claimant will be effective from 10<sup>th</sup> December 2002 i.e. after expiry of 6 months notice period.

From the nature of the evidence adduced by the parties and in view of the argument advanced by them it is to be decided if the resignation can be accepted before expiry of the notice period and if the said action would defeat the right of an employee to withdraw the decision of resignation before expiry of the notice period.

On behalf of the management reliance has been placed in the case of **Sanjay Jain vs. National Aviation Company of India limited reported in AIR 2019 Supreme Court 268** Though the facts of the said case are distinguishable from the facts of the case in hand the Ld. A/R for the management placed reliance on the same to argue that the management reserves the right of accepting the resignation prospectively. In the case of Sanjay Jain referred supra the Hon'ble Apex Court by referring to the judgment of **Moti Ram vs. Paramdev decided by the Hon'ble Supreme Court and reported in (1993) 2 SCC Page 725**, observed that resignation means spontaneous relinquishment of one's own right and in relation to an office. In the judgment of Moti Ram rendered by the Hon'ble Supreme Court it was held that:

“resignation’ means the spontaneous relinquishment of one’s own right and in relation to an office. It connotes the act of giving up or relinquishing the office. It has been held that in the general juristic sense, in order to constitute a complete and operative resignation there must be the intention to give up or relinquish the office and the concomitant act of its relinquishment. It has also been observed that the act of relinquishment may take different forms or assume a unilateral or bilateral character, depending on the nature of the office and the conditions governing it. Union of India vs. Shri Gopal Chandra Misra and Ors., MANU/SC/0370/1978: (1978) 3 SCR 12 at P.21) if the act of relinquishment is of unilateral character, it comes into effect when such act indicating the intention to relinquish the office is communicated to the competent authority. The authority to

whom the act of relinquishment is communicated is not required to take any action and the relinquishment takes effect from the date of such communication where the resignation is intended to operate in praesenti. A resignation may also be prospective to be operative from a future date and in that event, it would take effect from the date indicated therein and not from the date of communication. In cases where the act of relinquishment is of a bilateral character, the communication of the intention to relinquish, by itself, would not be sufficient to result in relinquishment of the office and some action is required to be taken on such communication of the intention to relinquish, eg., acceptance of the said request to relinquish the office, and in such a case the relinquishment does not become effective or operative till such action is taken. As to whether the act of relinquishment of an office is unilateral or bilateral in character would depend upon the nature of the office and conditions governing it.”

Not only that in the case of Raj kumar vs. Union of India reported in (1968) 3 SCR Page 857 it has been held by the Hon’ble Supreme Court that:

“When a public servant by his letter of resignation invited determination of his employment, his service normally stands terminated from the date on which the letter of resignation is accepted by the appropriate authority, and in absence of any law or Rule governing the condition of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority. Till the resignation by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus to withdraw the same and not thereafter”.

The Hon’ble High court of Kerala in recent judgment i.e. Sooryakanth vs. Kerala State Financial Enterprises Limited reported in 2019 LLR 415 while discussing the cases of Raj Kumar vs. Union of India and Gopal Chandra Mishra etc referred supra have come to hold that **“it is always open to the employees to withdraw his resignation for valid reasons prior to the acceptance of the same by the employer since till the date of acceptance of resignation there would be no severance of Jurial relationship between employer and employee”**.

In this case the claimant has taken a plea and also argued that in his letter dated 12.06.2002 he had asked for 10 month leave without pay with an ultimatum for resignation after 6 months if leave would not be granted. On the same day he gave another letter requesting leave without pay for a period of 6 months and in the said letter he had not expressed his intention and notice for resignation. He also submitted that by necessary implication the earlier letter for 10 months leave and in alternate for resignation stood withdrawn when he gave the second letter. But this argument of the claimant is not accepted since nowhere in the second letter he had mentioned about withdrawal of his notice for resignation. The second letter is limited to the duration of the leave applied for keeping all other things constant. From the documents filed by the management it is seen that the second letter for grant of 6 months leave was rejected by the management too by its letter dated 19.06.2002 which has been marked as Exhibit WW1/10. Thus, the letter of the claimant containing the notice for resignation being pending with the management the later by its order dated 16.08.2008 marked as exhibit WW1/11 accepted the offer of the claimant to resign and specified that the said resignation will be effective from 12<sup>th</sup> December 2002 i.e after expiry of 6 months notice period. No evidence has been placed on record by the claimant to convince this tribunal that the management has no power to accept the resignation before the expiry of the notice period. In the case of Union of India vs. Gopal Chandra Mishra and in the case of Moti Ram vs. Paramdev referred supra the Hon’ble Supreme Court have held that when the act of relinquishment is of bilateral character, the communication of the intention to relinquish would not be sufficient to result in relinquishment of the office and some action is required to be taken on such communication by the authority such as acceptance of the said request.

In this case the claimant has not adduced any evidence about the nature of relinquishment of the office whether it is unilateral or bilateral. Admittedly the claimant was a permanent employee of the management and in such a situation the action of the relinquishment or resignation is assumed to be of bilateral character unlike the case of temporary or contractual employees. Hence, the action of the management in accepting the pending offer of resignation made by the claimant clearly indicating that the same would be effective after the notice period cannot be viewed as a wrong and illegal act by the management. This issue is thus answered against the claimant and it is held that the claimant had voluntarily resigned from service of the management on 12.12.2002.

## **ISSUE No. 2**

There is no dispute that the claimant was a permanent employee of the management and had served from 03.08.1987 to 07.06.2002. Of course there was a period between 07.11.1998 to 07.06.2002 during which the claimant was not taken on duty. But by the order of the Hon’ble High Court he was taken on duty on 7.06.2002 which is in the nature of reinstating him in his service. Though there is no specific order about the continuity of service, as a Rule of natural Justice when a person is reinstated to service it is always treated as if he was in service during the period between his discontinuance and reinstatement. Keeping that principle in mind it is held that the claimant had served for the management from 03.08.1988 to 12.12.2002 as the aircraft engineer and his service came to an end on 12.12.2002 due to his resignation. Accordingly it is also held that the claimant is entitled to the back wages for the said period if not paid

alongwith all other consequential service benefit admissible to an employee of the management who resigns from his service. This issue is accordingly answered. Hence, ordered.

### ORDER

The reference be and the same is allowed in part in favour of the claimant. The acceptance of the resignation by the management in separating the claimant from service w.e.f. 12.12.2002 is held justified and legal. But the claimant is held entitled to the salary for the intervening period between 07.11.1998 to 12.12.2002 after deduction of any amount already paid alongwith all service benefits to which an employee of the management is entitled to on resignation. The management is further directed to settle the benefits and dues of the claimant within a period of 3 months, from the date of notification of the award, since the claimant has remained unemployed for a pretty long period, failing which amount so accrued shall carry interest at the rate of 6% per annum from the date of the notification of the award till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2234.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सऊदी अरब एयरलाइंस मुंबई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 70/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-11012/36/2013-आईआर (सीएम-1)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 26th December, 2019

**S.O. 2234.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Ref. No. 70/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. Saudi Arabian Airlines, Mumbai and their workmen, which was received by the Central Government on 26.12.2019.

[No. L-11012/36/2013-IR(CM-I)]

S. C. RAY, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

**PRESENT :** M. V. Deshpande, Presiding Officer

#### REFERENCE NO.CGIT-2/ 70 of 2013

#### EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. SAUDI ARABIAN AIRLINES

The General Manager – Pax Sales & Service,  
Asia & Australia,  
Saudi Arabian Airlines,  
41 & 42, Maker Chambers - VI, 220,  
Nariman Point, MUMBAI – 400 021.

#### AND

#### THEIR WORKMEN

The General Secretary,  
Saudi Arabian Airlines Employees Association,  
Flat No. 4, Turner House, St. Sebastian Cross Road,  
Bandra West, Mumbai.  
MUMBAI – 400 050.

**APPEARANCES:**

FOR THE EMPLOYER : Mr. Abhay Kulkarni, Advocate

FOR THE WORKMEN : Mr. Iqbal Siddique, Advocate

Mumbai, dated the 25<sup>th</sup> November, 2019

**AWARD**

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-11012/36/2013 – IR (CM-I) dated 06.12.2013. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Saudi Arabian Airlines, Mumbai in terminating the services of Mr. Thomas G. Vincent, Mr. Rajeev Mampuzha, Mr. Sunil F. Salve, Mr. Rajesh B. Sharma, Mr. Devanand L. Ingale, Mr. Abdul Rahim Ansari, Mr. Sayed Jari Abbas, Ex Security Controllers w.e.f. 16.09.2013 is legal and justified ? To what relief the workmen concerned are entitled to ?”

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The second party workmen and their union has filed statement of claim Ex.7. According to them, the concerned workmen are employed with the first party employer as Security Controllers since the year 1995 that is since around 19 years. They are permanent workmen of first party employer. They have been working with the first party employer regularly since last 19 years. They hold designation of Security Controller and have been performing the work of perennial nature.

4. It is then contention of the second party workmen and their union that the concerned workmen being the permanent security staffs who have been handling the security functions at Mumbai Station since the year 1995 and are trained in security functions. They are holding certification of aviation security [AVSEC] training conducted by BCAS, Ministry of Civil Aviation, Govt. of India and thus they are qualified to handle security functions of the first party company.

5. According to the concerned workmen, vide notice dt. 30.4.13, the first party employer announced Voluntary Several Scheme and called for participation of employees. After displaying the said notice, HR Manager of the first party Mrs. Haseen Menon called a meeting on 1.5.13 and informed all the employees that first party company is planning to introduce a outside ground handling agent [GHA] to handle the security functions. In the said meeting employees were made to understand or threatened that if sufficient number of employees would not opt for the said scheme then they would be facing retrenchment. Being aggrieved by such threat from the first party the second party union has served copy of demand notice on 10.5.13 on the first party employer. Vide their demand notice, second party had made it clear to the first party that they do not induct any persons from any third party or agency for any work or operation whatsoever presently carried out by the permanent employees. In the said notice the second party has also brought to the attention of the first party an undertaking given by first party before Industrial Court, Mumbai in ULP No. 217 / 1989.

6. According to the concerned workmen, they were in dilemma and were not in a position to understand the contents and results of the said retirement scheme. Including six workmen of the second party union some of the employees submitted applications for the said scheme. However, their applications were not accepted. After consulting their advocate the workmen concerned withdrew their applications for retirement scheme through their advocate letter dt. 29.5.13.

7. It is then contended that ever-since the said scheme is announced, the conciliation proceedings commenced between the first party and second party through their union in May '13. Thereafter there have been series of conciliation proceedings between the management of first party employer and the second party workmen through their union. During such conciliation proceedings the first party terminated the services of 3 of its permanent workmen. The industrial dispute between these workmen and the first party employer has been referred by the Central Govt. which is pending before the tribunal as Ref. No. CGIT-2 / 59 of 2013. In addition the Central Govt. has also referred the dispute relating to induction of third party by first party employer which is pending before this tribunal as Ref. No. CGIT-2 / 58 of 2013.

8. According to the concerned workmen and their union apprehending that the first party employer was about to enter into contract with third party agency to carry out security functions, the demand notice was served by the second party union to the first party on 12.9.13. In the said demand notice it was demanded by the workmen that the first party shall not retrench / terminate any permanent security staff / employees who were currently handling security functions at Mumbai station. Despite such prayers as apprehended by the workmen of the second party, the first party employer terminated the services of the second party by order / letter dt. 16.9.13.

9. It is then contended that first party employer deposited the fixed amount directly in the bank a/c. of the terminated workmen on the same day of termination of their services. However, workmen have returned the said amount so deposited in their salary a/c. vide their lawyer's letter dt. 25.9.13. The first party has acknowledged the receipt of cheques returned by the second party. But on the contrary returned those cheques to the advocate of the second party union and their workmen. As such the payment was forced upon the workmen of the second party.

10. According to the concerned workmen and their union the first party terminated the services of the concerned workmen on the grounds of closure of security dept. which is contrary to the special provisions relating to closure under Chapter V B of I.D. Act. The company of the first party management had total strength of 162 employees in the month of June '13 just 3 months prior to termination. Even after commencement of VSS and alleged termination of second party workmen the total strength of first party management was 108 as on Jan. '14 and therefore special provisions relating to closure under Chapter VB will be applicable.

11. It is then contention of the second party workmen that the termination of concerned workmen is contrary to the provisions of section 25 N of I.D. Act. The first party employer has neither obtained the permission from the specified authority nor has served the copy of application upon the second party workmen.

12. It is then contended that the termination of the second party workmen is contrary to provisions of section 25 O of I.D. Act since the first party employer has not made any application to seek permission from the specified authority 90 days prior to termination / closure as mandated u/s. 25(o) of the act.

13. It is then contended that the termination of the second party workmen was carried out during the pendency of conciliation proceedings since any change in the service conditions including termination by way of retrenchment of the workmen during pendency of conciliation proceedings is unlawful.

14. It is then contended that the termination of the concerned workmen is contrary to provisions of section 33 of I.D. Act since admittedly the services of the concerned workmen are not terminated by way of inflicting any punishment for any proved misconduct in pursuance of disciplinary action against them. As such no approval of competent authority was sought during conciliation proceedings by the first party employer to terminate the concerned workmen.

15. It is then contention of the second party workmen that the first party has victimized the workmen by terminating them for not opting for VSS offered by the first party employer in 2013. As such the first party employer has committed unfair labour practices in terminating the workmen by way of victimization u/p. 5 (a) and 9 of 5<sup>th</sup> Schedule of I.D. Act.

16. According to the concerned workmen their termination is in violation of section 9A of I.D. Act. The first party has violated the provisions of section 9A by not giving 21 days notice to them of change as contemplated the industrial dispute act. As such termination letters issued by the first party are illegal, improper, unjustified and arbitrary. The second party workmen and their union is therefore asking to quash & set aside the impugned termination letters / orders dt. 16.9.13 issued by the first party employer to them and to direct the first party employer to reinstate them to their original post with full back wages, continuity of service and all consequential benefits from the date of termination.

17. By filing written statement Ex.8, the first party has resisted claim contending therein that the Govt. of India through its Ministry of Civil Aviation came out with certain circulars and notification in respect of ground handling activities by the foreign airlines. Para 4.1 of the said circular / document known as DGCA – A/C – 07 / 2007 provides that BCAS must impose restrictions as may be necessary in this behalf on ground securities. In para 4.2 of the said circular, it is provided that all the concerned agencies as specified in paragraph – 2 shall be required to follow the instructions issued by BCAS as contained in the circular No. 4 / 2007 dt. 29.2.07 or as may be altered, substituted, modified or amended from time to time. The said circular No. 4 / 2007 laid down various instructions relating to deployment and induction of ground handling agencies at the airports to be implemented by all concerned agencies / departments.

18. It is then contended that by notice dt. 13.4.13 that the first party declared a VSS inviting applications from eligible employees within the time limit expiring on 15.2.13. Though the number of employees submitted their applications opting for the said scheme, many had some and other queries and sought meeting with G.M. of the first party which took place on 14.5.13. In the said meeting, G.M. answered all the queries. The time limit for the applications for the said scheme was extended to 23.5.13 as per the request of the employees. In all about 57 out of 59 eligible employees opted for the said scheme. However, on 31.5.13 the first party received the notice from Mr. Mukhtar Khan, advocate informing that 10 security staff who had already submitted applications opting for the said scheme wanted to withdrew the same. In view of this withdrawal the first party did not process their applications. However, thereafter application of Mr. Rajesh Koli was approved as per his request. The first party has thus approved the applications of 32 employees who had opted for VSS. Therefore in all 42 employees, 33 who opted for VSS and 9 who opted for early retirement were relieved from service on 30.6.13. In view of above the first party displayed the list of employees who were on its roll from 1.7.13 giving their details with a view to inform all the concerned as to their seniority and responsibilities.

19. It is also a contention of the first party that even after voluntary retirement of the employees as per the said scheme and early retirement and transfer of 2 staff to the traffic dept. the strength of security staff was in excess than required. Therefore by notice of termination dt. 4.7.13, three security staff were retrenched from services w.e.f. 5.7.13.

20. According to the first party on 2<sup>nd</sup> to 5<sup>th</sup> April '13 a team of officers from BCAS had visited the first party and conducted security audit. They had conducted security inspection from 16<sup>th</sup> to 17<sup>th</sup> May '13 and pointed that first party security programme is not approved and that the first party is performing the self handling of security functions except cargo which was / is being done by Air India security which is in violation of AVSEC order No. 5 / 2009. BCAS further directed to take corrective measures within the period of 30 days with intimation to BCAS. The first party could not avoid or disobey the said directions and had to take initiative to comply with those directions. In view of those directions, instructions and circulars of Civil Aviation Ministry the first party had to engage an Indian Aircraft Operator namely M/s. Jet Airways India Ltd. having international operations by a contract to handle security functions as foreign airlines are not allowed to self handling security functions. Following that the first party finally and irrevocably closed down its security dept. at Mumbai international airport w.e.f. 16.9.13. In view of closure of security dept. / section of first party w.e.f. 16.9.13 the present reference does not survive.

21. It is then contention of the first party that first party had thus closed down the security dept. for the reasons set out in the closure notice and the letter of termination of the services of the employees named in the reference. The said closure is final and irrevocable.

22. It is then contended by the first party that undertaking given in complaint ULP No. 217 / 1989 was in respect of General Sales Agents who were working at Mumbai office and not at the airport and the said undertaking was not in respect of any ground handling agent. The nature of functions of General Sales Agents at Mumbai office and the functions of ground handling agent at the airport are totally different therefore the said undertaking had no application in the present matter. It is thus denied that there was any threat of retrenchment to the workmen. It is also denied that there was any malafide intention on the part of first party to hire contract staff to perform work carried out by the workmen of the second party. The conditions imposed by the Govt. of India which were admittedly within the knowledge of second party warranted the appointment of Indian Airlines operator having international operation to carry out the security functions in the airport. Such directions and the instructions issued by BCAS and security audit carried out by BCAS were known to the second party. The closure was eminent as not engaging Indian craft Operator having international operations to India to handle the security matters of the first party will result the security breach of India.

23. Not only that but the first party has made the payment of notice pay and closure compensation to all the workmen affected by the closure by crediting the same directly into the bank a/cs. of the terminated workmen, since it was legal obligation of the first party to pay the notice pay and closure compensation to the workmen affected by the closure.

24. Lastly it is denied that the first party committed the unfair labour practices of terminating the workmen by way of victimization and that the termination is illegal and unjustified. On these premise the first party has thus sought dismissal of reference.

25. Following issues are framed at Ex.17. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issue	Findings
1	Whether the action of the management in terminating the services of Mr. Thomas G. Vincent & 6 ors. Ex-Security Controllers is legal, just and proper ?	No
2.	Whether the reference is maintainable as the Security unit is closed ?	Reference is maintainable
3.	What relief the workmen are entitled to ?	As per final order
4.	What order ?	as per final order

### **Reasons**

#### **Issue No.1 & 2.**

26. So far contentions go, it is mainly the contention of the first party that the retrenchment of concerned workmen is due to the circumstances beyond the control of the company as BCAS exercising powers vested in it imposed ban upon self handling security functions by foreign airlines. It is the contention of the first party in this respect that BCAS repeatedly rejected security programme of the company till the time it was self handling security functions. The BCAS even issued warning against the company for not continuing to self handling security functions. Therefore as per mandatory directions of BCAS the company had no other option but to engage M/s. Jet Airways India Ltd. which was one of the approved agency for handling security functions. On account of the said ban the company had no other alternative but to retrench the security personnel.

27. So far termination of order is concerned, it reads that

**“pursuant to the directions of BCAS we are not authorized to carry out the security functions at the International airport, Mumbai therefore we have closed the security section / dept. at Mumbai airport, consequently your services stands terminated with effect from closing hours of 16.09.2013.”**

28. In view of this, it is to be seen whether the first party has closed down security section / dept. at Mumbai airport. Section 2 (cc) of the I.D. Act defines ‘closure’ as permanent closing down of the place of employment or part thereof. Whether closure means closure of business all together or merely closure of an undertaking or any manufacturing process but the business continued, also amounts to closure? In the decision in case of M/s. Biddle Sawyer Ltd., Dr. Annie Besant Road, Worli, V/s. Chemical Employees’ Union and Ors. – WP No. 427 / 2006, it has been held that the closure would really mean the permanent closure of place of employment or part thereof and the same could never mean only place of employment. A place of employment means a place which generates employment or where the business is carried and the same should not be construed in a superficial manner to indicate only building or factory.

29. In the facts of the present case, it is no doubt true that AIC, SL No. 3/2013 Ex.19 clause No. 4.1 and 4.2 provide in a mandatory manner that BCAS shall have power to impose restrictions on grounds of security upon airlines and allied agency as may be deemed necessary and that all are duty bound to follow the directions issued by BCAS from time to time.

30. In this respect it is the case of the first party that BCAS imposed restriction upon foreign airlines that there should be no self handling of security functions by the foreign airlines and that the said function must be carried out by the airlines approved by BCAS. Saudi Arabian Airlines was self handling security functions, the workmen concerned were performing said security functions. Thus due to aforesaid restriction by BCAS the said concerned workmen could not be deployed for self handling security functions. The question is whether BCAS has passed any order or directions to the first party to stop its security functions and not to do the security functions by keeping / retaining its own security personnel?

31. In this respect, MW-1 Adil Khan in his oral testimony during his cross examination has stated that there is no specific order from BCAS to close down the security dept. Ex.25 is the reply given to RTI query obtained by second party and in response to RTI query on behalf of the second party, Govt. of India / BCAS has replied vide letter No. CAS – 7 (35)/2010 dt. 26.9.13 that no direction has been given to M/s.SAA to close down its security dept. It is thus clear that there is no specific directions from BCAS to the first party to close down its security dept.

32. In view of that the first party has come out with a case that it was necessary for S.A.A. to get their security programme approved by BCAS from time to time. On 9.5.12 Mr. Umesh Parulekar one of the workman concerned was sent for attending security programme meeting with officials of BCAS at Delhi for obtaining approval of security programme of the company and the said security programme was not approved substantially due to company continuing with self handling of security functions. It is then contention of the first party that BCAS issued the letter dt. 17.5.12 [Ex.19] to to the company wherein by para – 5 the company security programme was rejected due to self handling of security functions in violation of AVSEC order No. 3/2009 and AVSEC order No. 5/2009, further advising that airlines may enter into contract with Indian carriers having international operations from that airport.

33. So far as AVSEC order No. 3/2009 [Ex.19 is concerned, the said order delineated the areas of security functions to be carried out by aircraft operators / first party which include any other security functions notified by the Commissioner from time to time. Clause – 7 of the order provides that “The responsibility for all security related functions shall be with the airlines concerned. For this purpose a security coordinator shall be designated by the respective airlines at each airport from where they shall have operations.”

34. Importantly, para 2 of the said AVSEC order 03/2009 provides that, “Keeping in view the AVSEC requirements under current surcharged security scenario, these AVSEC functions cannot be mixed up with other ground handling activities, and these AVSEC functions shall not be allowed by an Aircraft Operator / Airport Operator to be undertaken by a Ground Handling Agency.”

35. Para 3 of the said AVSEC order 03/2009 further provides that, “The above mentioned security functions shall be carried out by the concerned airlines’ security personnel who possess all competencies required to perform their duties and are appropriately trained and certified according to the requirements of the approved Security Programme of respective Aircraft Operator and the National Civil Aviation Security Programme of India.”

36. So far AVSEC order 05/2009 is concerned, it provided for reviewed norms for deployment of airlines security staff to undertake security functions. The said order is in force even today and related mandatory provisions are; Clause [A] – Provides that airlines must have Chief Security Coordinate. Clause (B) provides for deployment of officers of the airlines Security Department of suitable seniority at various stations for effective security supervision and implementation. Clause [E] provides that each airline should establish a Security Control Room to coordinate all security functions and should be manned during its operations by one or more security personnel. Clause [F] provides for



deployment of security personnel at different security positions for the airlines including foreign airlines. Clause [G] provides that the Security Supervisor shall ensure that Aircraft Release Certificate signed by all the concerned departments and signature is to be obtained from the Commander of the flight.

37. It was for the first party to ensure the compliance of the above orders and as such vide letter dt. 31.12.14 BCAS directed the first party to give undertaking that the first party will comply with all the BCAS orders / circular in particular AVSEC order 05/2009 and accordingly the first party has given the undertaking to the Govt. of India. MW-1, in Ref. No. CGIT-2 / 59 of 2013 has admitted this fact. It appears therefore that since the first party has not complied the mandatory directions of BCAS for compliance of AVSEC order 05/2009 its security programme was not approved. That does not mean that BCAS imposed restrictions upon the first party on the grounds of security functions since the fact remains that the security programme of the first party for Mumbai station was approved by BCAS vide their letter dt. 31.12.14 whereby the BCAS has taken specific undertaking for compliance of all Govt. / BCAS orders and circulars, However, that undertaking is given by the first party after termination of the services of second party workmen.

38. Even then the Learned Counsel for the first party submitted that on 22.5.12 Mr. Umesh Parulekar attended the meeting with BCAS officials for approval of the security programme but company security programme was rejected and from 2<sup>nd</sup> to 5<sup>th</sup> April '13 BCAS conducted security audit in company at Mumbai Airport and once again rejected the security programme of the company substantially because company had continued with self handling security functions being violation of AVSEC order No. 03/2009 and 05/2009. Submission is to the effect that by letter dt. 19.7.13 [Ex.26], the BCAS intimated to the company that its security programme is not approved because company conducted self handling of security functions in violation of aforesaid AVSEC orders and called upon the company to take corrective measures within the period of 30 days under intimation to BCAS to preclude the possibility of unlawful interference that Civil Aviation operations and thereafter by notice dt. 16.9.13 in the light of ban on self handling security functions the company closed security dept. at Mumbai airport as it had discontinued the airport security functions.

39. So far this submission is concerned, it can be said that none of the government orders / circulars or instructions stopped or prohibited the first party to do the security functions at airport by keeping own employees. BCAS letter dt. 17.5.12 [Ex.19] shows that BCAS returned the security programme for the reasons stated therein including to provide letter about appointment of Chief Security Officer as per clause – 6 of the letter. Accordingly, BCAS directed the first party to resubmit the security programme. Admittedly, it is mandatory for every airline to have security coordinator at each station. Even BCAS letter dt. 16.5.13 regarding security audit at Mumbai airport from 2.5.13 pointed out the deficiencies in security arrangements of the first party by observation in para – 3 that out of 18 security staff 14 did not have undergone basic AVSEC. All are due for refresher course. Para – 2 of the said letter mentioned that airline is performing self handling security functions except cargo by AI security which is in violation of AVSEC order No. 03/2009 and 05/2009 and the first party was directed to take corrective measures. Vide said, para – 2 it was pointed out that first party was performing self handling of security and that first party was doing cargo security by AI and the said was in violation of AVSEC order No. 03/2009 and 05/2009.

40. Obviously, by above letter dt. 16.5.13 BCAS has no where directed the first party not to carry out the security functions.

41. As a matter of fact, it can be seen that the first party vide letter dt. 17.5.13 to Dy. Commissioner of Security, Civil Aviation, Govt. of India Ex.25 has admitted that the Aircraft Operator Security Programme was returned to make necessary changes. In para – 2 of the said letter it is stated that SAA has a security dept. in Mumbai airport performing all security related functions as per National Civil Aviation Security Programme. Vide letter dt. 17.5.13 the first party has also submitted in para – 3 that it has made prompt compliance as per BCAS directions vide letter dt. 16.5.13 and sent for 15 days training and refresher course of its security employees. If really there was any objection by BCAS for self handling of security functions by the first party then the first party would not have sent its security employees for training.

42. Infact, there is enabling provisions that airline may enter into agreement with authorized Indian carrier. However, there is no specific order, circular, rules providing that foreign airlines are prohibited or not authorized to do the security functions and that the airline has to enter into agreement with the Indian carrier. In the instant case first party had well trained highly experienced security personnel and as such first party is capable of or competent to do self handling of security functions. Even MW-1 in his statement during the cross examination has stated that since BCAS has quoted order No. 05/2009 dt. 29.10.09, he in his affidavit has stated that first party is performing self handling functions in violation of this order. The question therefore creeps in as to whether really there was ban on self handling security functions by foreign airlines.

43. In this respect, we have document at pg. 156 below list Ex.25 to show that application was made under RTI 2005 and the information was sought on the subject if airline can carry on with its operation at any airport without existence of its own security dept. and the information given is that the airline is not permitted to carry on its operation at any airport without existence of its own security dept. This information was given by Dy. Commissioner of Security [CA & CPIO]. The information was also sought on the subject if any airline can be allowed to carry on its airline operation

landing aircraft into Indian territory without having its security programme duly approve by as mandated by law and the information given is to the effect that no scheduled commercial airlines is allowed to do so. From this information it is clear that airline cannot carry on its operation at airport without existence of its own security dept. For that purpose it has been brought on record that the first party employed more than 100 employees in the estt. and carried on security functions since it starts of operation in India in 1970. This is explicit from the document filed by the second party vide Ex.13 at Pg. No. 66 to 69 and Ex.25 at Pg. 35 to 40.

44. Even it is undisputed position that the concerned workmen were trained in aviation security functions holding AVSEC certification of training conducted by BCAS and are competent to handle any airlines security responsibility and perform any security functions. In such circumstances when it is mandatory for the airline that there has to be one security control room at each station and that every airline to have security coordinators at each station and then the security programme of the first party got approved by BCAS vide letter dt. 31.12.14 then it is difficult to accept that there was complete closure of security functions by first party airline. It is because there is evidence on record that the first party continued with his business and security functions / depts. even after 16.9.13 in as much as the first party addressed letters dt. 15.4.14 to the Govt. / BCAS through its own Chief Security Officer vide Ex.25 and BCAS issued the letter dt. 31.12.14 addressed to Chief Security Officer regarding approval of security programme of first party vide Ex.37 in Ref. No. CGIT-2 / 59 of 2013. The evidence is also on record to show that the first party had transferred two security staff from Mumbai to Delhi in 2004 who were transferred back to Mumbai due to shortage of security staff. The fact remains therefore that there was no complete closure of security functions by first party airline.

45. Even then the Learned Counsel for the first party company submitted that as per mandatory directions of BCAS the company had no other option but to engage M/s. Jet Airways India Ltd. for handling security functions. Submission is to the effect that ban on self handling security functions by foreign airlines is the policy decision of the BCAS in accordance with the powers vested in it and therefore the security dept. in Mumbai was rightly closed. Submission is to the effect that the company required to retain its own security personnel for supervising the work of out-source agencies as ultimate responsibilities of the security functions still lies upon the company. Hence the company had to retain 2 security personnel for such supervision and certification to discharge its obligations.

46. The submission is other way round. As a matter of fact, even after termination of the second party workmen the first party appointed security personnel at different stations in India and those security staff appeared in basic AVSEC examination to clarify the requirement of BCAS for security functions when on the contrary the concerned workmen were qualified.

47. If really it would have been a fact that foreign airlines are banned from carrying out security functions then the BCAS would not have asked M/s. Gulf Air to do refresher of the permanent staff which is self handling of security functions. It appears that as per communication to M/s. Gulf Air vide letter dt. 16.5.13, BCAS communicated that there was shortage of security staff and that the permanent security staff needed refresher course and thus directed M/s. Gulf Air for taking corrective measures. That negates the contention of the first party that the foreign airlines are banned for carrying out security functions by BCAS. Precisely, it is also admitted by MW-1 [Ex.31] in his cross examination that it is mandatory for every airline to have security coordinators at each station who according to first party are required to supervise the work of security functions as ultimately the responsibility of the security functions lies on the company.

48. Learned Counsel for the second party urged that the termination of the concerned workmen was pre-meditated since action was already taken by the first party prior to 16.9.13 which culminated in termination of the services of the second party workmen. He pointed out that in 2011 first party engaged M/s. Celebinas Co. for its ground handling functions. In 2012 first party handed over cargo security functions to A.I. without permission from BCAS, in May '13. First party offered VSS and offered VSS only to the staff at airport Mumbai. That VSS was applicable only to traffic and security staff and loaders and not to any other staff of any other dept. The first party applied for permission from BCAS in June '13 to outsource security and other ground handling functions to M/s. Jet Airways India Ltd. On 16.9.13 first party outsourced ground handling to M/s. Jet Airways India Ltd. After 16.9.13 first party made fresh recruitment of the employees including security job without adverting to concerned workmen. Submission appears probable and acceptable since the fact has come on record that there was no complete closure of the security functions and that there was no directions and order from the BCAS to close down the security functions.

49. In this respect, the Learned Counsel for the concerned workmen seeks to rely on the decision in case of Mackinnon Machenzie and Co. Ltd. V/s. Mackinnon Employees Union – [2015] – 4 – SCC – 544 to submit that statutory provisions containing section 25 FFA of I.D. Act mandate that company should have issued the intended closure notice to the appropriate Govt. and should serve the notice atleast 60 days before the date on which it intended to close down the dept. / unit concerned of the company. The object of serving such notice on the State Govt. is to see that it can find out whether or not it is feasible for the company to close down the dept. / unit of the company and whether the workmen concerned ought to be retrenched from their services made unemployed and to mitigate the hardship of the workmen and their family members. Further the said provisions of I.D. Act is a statutory provisions given to the workmen concerned or prevent the appellant company from retrenching the workmen arbitrarily, unreasonably and in an unfair manner.

50. With this the submission is that there is no closure of security functions / dept. by the first party which is still continuing with its business with the security functions with own personnel by hiring 50 contractual staff including 9 security staff from ground handling agency.

51. I shall now refer to the authorities relied upon by the Learned Counsel for the management. Reliance is placed on the judgment and order dt. 10.1.18 passed by the Hon'ble H.C. in WP No. 2657 / 2017 – Bharatiya Kamgar Karamchair Mahasangh V/s. Jet Airways India Ltd. to submit that restrictions imposed by BCAS are having binding effect.

52. Reliance is placed on the decision in case of Parry & Co. V/s. P.C. Pal & Ors. – 1969 0 2 – SCR – Page – 976 to submit that when the reorganizing of business is done bonafidely it is not competent for the tribunal to question its propriety. It is held that in reorganization of the business for the reasons of economy or conveyance discharge of some of the employees would have no material bearing on the question whether the scheme is adopted by the employer in a bonafide manner.

53. Here in the instant case as seen earlier there was no directions from BCAS to close the security functions for bonafide reasons, it cannot be said that the company stopped self handling of security functions for bonafide reasons therefore the facts in the present case are quite distinct and distinguishable.

54. Learned Counsel for the first party company vehemently argued that the scope of pleadings and adjudication in this reference is restricted and the tribunal cannot go into the adjudication of the policy of the company and has to confine itself to the reference made. Submission is to the effect that the issue of closure being proper or not is not referred to this tribunal and therefore same cannot be gone into. In the context the reliance is placed on the decision in case of Mohd. Sarver V/s. State of UP & Ors. – WP No. 41748 / 2008.

55. It is no doubt true that issue of closure being proper or not is not referred to this tribunal and therefore the same cannot be gone into but here the issue is whether there is closure or not? Whether it is legal and proper is not the issue to be gone into. Once it is held that there is no closure at all of security functions / dept. by first party airline then that can be considered since the retrenchment is on the ground of closure of security functions / dept. by first party airline.

56. Learned Counsel for the first party airline is relied upon the decision in case of management of Kirloskar Institute of Advance Management Studies V/s. Shri N. Manjunath & Ors. – W.A. No. 30065 / 2012 [L-TER] – to submit that action of management of engaging the contractor after retrenching the permanent workmen is to be upheld. In para – 18 of the said judgment it is held that notice to the government in respect of closure is not mandatory but directory.

57. Reliance is also placed on the decision in case of Santosh Shindal V/s. School Management of Dayanand School & Anr. – WP [C] No. 286 / 2015 to submit that when the post is abolished on account of non-availability of work the incumbent loses lien on the post and he must go home. I think the observations in the cited dictum does not help the first party airline. The same is the case when reliance is placed on the decision in case of Ghatge & Patil concerns Employees Union V/s. Ghatge & Patil Transport P. Ltd. – 1968 (1) – SCR – 300 to submit that there is no bar on introduction of contract system and that the employer is free to rearrange his business.

58. Considering all these facts I find that there is no valid closure of security functions / dept. by the first party company and therefore the action of termination of services of the concerned workmen on the ground of closure of security section / dept. at Mumbai airport is not legal and proper. Once we come to the conclusion that there is no valid closure of security dept. at Mumbai airport by first party airline it cannot be said that reference itself is not maintainable as security unit is closed. As such the reference is maintainable. The above issues are therefore answered accordingly as indicated against each of them in terms of above observations.

### **Issue No.3.**

59. In view of my findings to the above issues the termination of the concerned workmen is not legal just and proper. The reliefs claimed by the concerned workmen are in respect of reinstatement to their original post with full back wages, continuity of service and all consequential benefits.

60. In this respect, Learned Counsel for the first party management submitted that the burden is on the workmen to plead and prove his not obtaining alternative employment. It is not sufficient for the workmen only to state on affidavit that he is not gainfully employed and that the workmen has to establish by cogent evidence that he is not gainfully employed. He has to explain how he and his family are survived. According to the Learned Counsel for the first party, the workmen have not produced any applications made by them for alternative employment. They have also not disclosed how they and their families are surviving. Infact in the affidavit of union's witness, it is stated that due to old age they would not get alternative employment when infact they could have easily obtained alternative employment. Therefore the relief of back wages ought to be rejected. In the context reliance is placed on the decision in case of Rajasthan State Road Transport V/s. Phoolchand – 2018 – SCC – Online SC – 1538. Similarly, the reliance is placed on the decision in case of U.P. State Bridge Corpn. V/s. Maharashtra General Kamgar Union – 2008 (4) – MhJ – 297.

61. On going through the evidence of Umesh Parulekar, he appears to have stated in his examination in chief that it was difficult for the second party workmen to get the suitable job anywhere else at this stage and age of their life. There is no cross examination directed against it. Sum and substance of his evidence in this respect is that due to old age he did not get the job. In such circumstances when the concerned workmen have rendered 19 years unblemished service and their services came to be retrenched on account of closure of security functions / dept. by the first party and when infact there is no such valid closure of security functions / dept. then in such circumstances concerned workmen are entitled to back wages from the date of termination.

62. Considering all these facts I find that the concerned workmen are entitled to relief of reinstatement to their original post with full back wages, continuity of service and all consequential benefits from the date of termination / retrenchment.

63. In the result, I pass the following order.

### **ORDER**

1. Reference is allowed with no order as to costs.
2. The impugned termination letters / order dt. 16.09.2013 issued by the first party to the concerned workmen is quashed and set aside.
3. First party employer is directed to reinstate the concerned workmen to their original post with full back wages, continuity of service and all consequential benefits from the date of termination.

Date: 25.11.2019

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2235.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 33/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/5/2006-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th December, 2019

**S.O. 2235.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.12.2019.

[No. L-12012/5/2006-IR(B-1)]

B. S. BISHT, Under Secy.

### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 10<sup>TH</sup> DECEMBER 2019

**PRESENT : JUSTICE SMT.RATNAKALA, Presiding Officer**

### **CR 33/2006**

#### **I Party**

Sh. Ramaiah,  
S/o Sh. Jagattappa,  
No. 2, Anjaneya Temple Street,  
Adugodi,  
Bangalore - 560 030.

#### **II Party**

The General Manager (P),  
State Bank of India,  
Region-I, Zonal Office,  
No. 48, 5<sup>th</sup> Floor, Church Street,  
P.B. No. 5014,  
Bangalore - 560 001.

### **Appearance**

Advocate for I Party : Mr. S B Mukkannappa

Advocate for II Party : Mr. A G Shivananda

**AWARD**

The Central Government vide Order No. L-12012/5/2006-IR(B-I) dated 24.07.2006 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

**“Whether the action of the management of State Bank of India in imposition of punishment of Dismissal from the services of Shri Ramaiah, Duftry, State Bank of India, Jayanagar IV Block Branch, Bangalore with effect from 30.04.2005 is legal and justified? If not, to what relief he is entitled and from which date?”**

1. The 1<sup>st</sup> Party workman herein was appointed as a Messenger in the 2<sup>nd</sup> Party Bank in year 1985 and was promoted as Duftary in year 1991 and was working at Jayanagar Branch. On allegation of misconduct he was placed under Suspension and was Charge Sheeted that was followed by a Domestic Enquiry by appointing Enquiry Officer and Presenting Officer. The Enquiry Officer on conclusion of the Enquiry submitted his report dated 28.12.2004 holding him guilty of all the charges; acting on the Enquiry Report he is dismissed from the service w.e.f 30.04.2005. The Appeal preferred thereon did not survive.

2. The claim of the 1<sup>st</sup> Party before this Tribunal is, at the instance of the 2<sup>nd</sup> Party Jurisdictional Police registered a case against him, he was charge sheeted for the offences punishable under sec 381, 419, 468 and 420 of IPC. He was acquitted of the charges by the 2<sup>nd</sup> Additional Chief Metropolitan Magistrate, Bangalore, vide Judgement dated 18.03.2003. The Enquiry was conducted after the judgement was passed by the Criminal Court i.e., after 10 year from the date of alleged misconduct. The delay of holding the Enquiry has caused great prejudice to his case and he could not defend his case effectively. The Enquiry Officer hurriedly concluded the enquiry; the Domestic Enquiry is in violation of Bipartite settlement the punishment order passed on the basis of defective Enquiry, as well as perverse findings of guilt recorded by the Enquiry Officer, is not sustainable. On account of the illegal order of dismissal he has become unemployed and facing financial hardship.

3. The 2<sup>nd</sup> Party countered the claim statement allegation stating that as per the Provision of Bipartite Settlement governing the service of the 1<sup>st</sup> Party, once the award staff is prosecuted, the departmental proceedings has to be kept in abeyance for a period of 1 year and also after commencement of Trial in Criminal Case; there is no question of delay to the prejudice the 1<sup>st</sup> Party. There was no violation of natural justice nor of the Bipartite Settlement as alleged during the Enquiry. The Enquiry Officer's finding is not perverse. The punishment order commensurates with the misconduct committed by him. The charges having been duly proved, the punishment order is legal and justified. The Appellate Authority after going through the entire Enquiry Report and the evidence has confirmed the order passed by the Disciplinary Authority.

4. On the rival pleadings touching the fairness of the Domestic Enquiry conducted against the 1<sup>st</sup> Party, a Preliminary Issue was raised, tried and adjudicated by holding that the Domestic Enquiry is conducted in fair and proper manner.

5. The allegation against the 1<sup>st</sup> Party workman in the Charge Sheet of 31.03.1994 was.

- i) on 17.04.1993, while on duty he opened Registered Postal Covers received at the Branch, surreptitiously took one registered cover received from Bangalore Branch of the 2<sup>nd</sup> Party containing Banker's Cheque No. 001090 dated 08.04.1993 for Rs. 1,08,899/- favouring one Sh. P.K Kuttappa meant for credit of Payee's NRE Account Number 71.
- ii) On 19.04.1993 being a weekly holiday for the Branch he opened an Account at Vijaya Bank Adegudi posing himself as Sh. P.K Kuttappa with the initial deposit of Rs.20/-; got introduction of Sh. K. Gopala, owner of Pan Beeda Shop just near the Vijaya Bank in the blank SB A/c opening form stating that he wants to open SB A/c in the name of his wife.
- iii) He tendered the above Banker's cheque to the Bank
- iv) and withdrew amount of Rs. 1,08,875/- on the following dates i.e. 22.04.1993, 04.05.1993, 14.05.1993, 19.05.1993 and 12.06.1993.

6. During the Domestic Enquiry management examined three witnesses.

The first witness / PW-1 was the Branch Manager (Present) of the Jayanagar Branch; the witness except for identifying the documents had no personal knowledge of either the documents or any of the concerned facts.

The second witness / PW-2 was the then Branch Manager, he was examined to identify the confession statement made by the 1<sup>st</sup> Party before the Investigating Officer on 18.09.1993 in the Branch; the statement is recorded in the handwriting of the witness. During the cross examination he admitted that the said confession statement is not signed by the CSE; he identified an explanation letter addressed by the CSE on 06.05.1994 to the Assistant General Manager which was received by him at the Branch and the said document was taken on record as DEX-1. It emerged during his cross

examination that one of the Staff Sh. Purushotham who was in Tapal section used to receive the registered tapal and make entry in the register and there is no mention of the disputed cheque in the inward register on the relevant date.

The third witness / PW-3 was the Assistant Manager of Vijaya Bank, Adugodi where the disputed cheque was encashed. Through him specific signature of the depositor (P.K. Kuttappa) of the cheque was marked as PEX-7 and the SB Account pay slips were marked as PEX-8. The withdrawal slips pertaining to the alleged transaction were marked as PEX-10, PEX-11, PEX-12, PEX-13, PEX-14. He admitted that the Bank had written Confirmation Letter to the Investigating Officer that the SB Account opened in the name of Sh. P.K Kuttappa on 17.04.1993 was with proper introduction.

CSE examined one witness on his behalf, his neighbour (Sh. Ravindra) to negate the contents of his confession statement (vide his confession statement he is alleged to have admitted fraudulent withdrawal to clear of the loans and Sh. Ravindra was one such lender. It was also alleged that said Sh. Ravindra had helped in filling up the withdrawal slips). The witness categorically denied of lending any amount to the CSE or filling withdrawal slips.

On behalf of the Management 16 documents were marked and the 1<sup>st</sup> Party workman produced 2 documents, DEX-1 his explanation letter dated 06.05.1994 denying the charges; DEX-2 is the deposition of G.K Pujar, (in the criminal case second witness examined during the enquiry).

7. To reach the finding of guilt the Enquiry Officer was swayed away by the statement said to have made by the CSE before the Police Officer. Though PW-2 states that he recorded in his own handwriting the confession statement of CSE (PEX-5), there is no certification to that effect in the document. The certification is by the Investigating Officer (Criminal Case) that the statement was made by the CSE to him in the presence of Sh. G K Pujar, Branch Manager, Jayanagar 4<sup>th</sup> Block. PW-2 has subscribed his signature to the statement. DEX-2 (deposition of PW-2 in the Criminal Court) dated 17.05.1999; nowhere in his testimony before the Criminal Court he had referred to any such confession statement recorded by him, in the said statement he had stated during his cross examination that PW-5 Purushotham was in Tapal Section and he has received the cheque on that day but in the inward register the receipt of the cheque is not mentioned; he was not working as Manager at that time in the Bank and so he had no personal knowledge of that relevant period. The discrepancy between the oral evidence given by him before the Criminal Court and the statement given by him before the Enquiry Officer does not infuse confidence about the veracity of the so-called confession statement of the accused recorded by him marked as PEX-5. Admittedly the person who opened the Account at Vijaya Bank in the name of P K Kuttappa was introduced by one of their customers namely Sh. Suresh, said Sh. Suresh was not examined, lest his evidence would have cleared all the reasonable suspicion arising from the facts displayed during the enquiry.

8. The Enquiry Officer though has noticed that Presenting Officer has not brought any direct proof / evidence like Handwriting Expert's Report, still relied on 2 documents PEX-15 and PEX-16 to hold that it was the CSE who opened the Account in the name of Sh. P K Kuttappa; PEX-15 was a letter addressed by the Investigating Officer along with the Photo of the CSE seeking confirmation from Vijaya Bank, Adugodi vide his letter dated 08.10.1993 regarding opening of the Account by the person whose photograph is affixed, in the name of Sh. P K Kuttappa. This was to enable the Bank to proceed against the employee. PEX-16 is the letter of the Vijaya Bank in reply to PEX-15 which reads thus:

*with reference to the above we hereby confirm you that the Saving Bank Account No. 14606 opened in our Branch on 19.04.1993 in the name of Mr. P K Kuttappa with proper introduction.*

9. I fail to understand how this reply could fix the CSE viz a viz the identity of the culprit who actually opened the Account in the name of Mr. P K Kuttappa and made fraudulent withdrawals thereafter. The finding reached by the Enquiry Officer is hypothetical and arbitrary not based on the evidence which was tabled before him. The action of the 2<sup>nd</sup> Party in accepting the Enquiry Report and acting on the same without considering his defence is neither legal nor justified.

10. The 1<sup>st</sup> Party workman after adjudication of the Preliminary Issue has adduced evidence that he is not gainfully employed ever since the date of his dismissal and his efforts to get an alternative employment has ended in vain. In that view of the matter it is required to exercise the jurisdiction of this Tribunal under sec 11-A of 'the Act' to reinstate the workman to his original post with continuity of service, so far as back wages is considered the 2<sup>nd</sup> Party being a Public Institution run from the public fund rendering service to the public, awarding 100% back wages is not appropriate, instead 50% of the back wages will do good.

**AWARD**

**The reference is accepted.**

**The punishment of dismissal from service imposed on the 1<sup>st</sup> Party workman Sh. Ramaiah, Duftry dated 30.04.2005 is set aside.**

**The 2<sup>nd</sup> Party Management is directed to reinstate the 1<sup>st</sup> Party workman to his original post with continuity of service and 50% of back wages from the date of his dismissal till the date of his reinstatement.**

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 10<sup>th</sup> December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2236.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट (संदर्भ संख्या 167/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/101/97-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th December, 2019

**S.O. 2236.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 167/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulum as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.12.2019.

[No. L-12012/101/97-IR(B-1)]

B. S. BISHT, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
ERNAKULUM**

**Present:** Shri. V. Vijaya Kumar, B. Sc, LLM, Presiding Officer

(Wednesday the 19<sup>th</sup> day of June 2019, 29 Jyaistha 1941)

**ID No.167 of 2006**

**with**

**CP No.50 of 2017**

Workman... : Sri. P. K.Unni,  
Lakshmi Vihar, Puduppariyaram Post,  
Palakkad, Kerala - 678731

By Adv.R.Divakaran

Management... : 1. Regional Manager  
State Bank of India,  
Zonal Office,  
Mavoor Road, Kozhikode – 673021

2. Zonal Manager  
State Bank of India,  
ZonalOffice, MavoorRoad,  
Kozhikode – 673021

3. The Managing Director,  
Head Office, State Bank of India,  
State Bank Bhawan, Mumbai,  
Maharashtra – 400021

By M/s.George Thomas Mevada & Associates

This case coming up for final hearing on 03.05.2019 and this Tribunal-cum-Labour Court on 19.06.2019 passed the following.

### AWARD

In exercise of the powers conferred by clause (d) of Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No. L-12012/101/97-IR(B-I) dated 31.12.1997 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

**“Whether the action of the management of State Bank of Travancore in dismissing the service of Sri. P. K. Unni, Cashier-Clerk from 27.06.1996 is justified? If not, to what relief the workman is entitled?”**

3. During the course of these proceedings it was pointed out by the Counsel of the workman that during the pendency of these proceedings State Bank of Travancore merged with State Bank of India and as such sought to amend the claim replacing State Bank of Travancore with State Bank of India Kerala respondent. The amendment sought by the workman is allowed by order dated 15.02.2019.

4. This ID is originally heard and decided vide Award dated 4<sup>th</sup> day of November 2008. This Award was challenged by the managements in W.P. (C) 11750/2009.

5. The workman filed C.P.(C) 5/1998 before the Labour Court, Kozhikode claiming Subsistence Allowance at a higher rate which was dismissed by the Labour Court. The workman challenged the above order in W.P.(C) 24684/2005. Both these Writ Petitions were heard together and the Single Bench of the Hon’ble High Court set aside the impugned order as well as the Award and remitted both the cases to this Court to be decided together after fresh enquiry. The workman challenged this order in W.A.no.1312/2017. The Division Bench of Kerala High Court vide order dated 30.06.2017 upheld the decision of the Single Bench holding that the conclusions in the two proceedings are prima facie contradictory.

6. When the matter was taken up by this Court on 29.11.2018 the managements sought time stating that they would like to file fresh Vakalath as State Bank of Travancore is merged with State Bank of India. The management also submitted that they would like to adduce fresh evidence. The Counsel for the workman strongly objected to the submission regarding fresh evidence by the management. Since the Hon’ble High Court has directed this Tribunal to adjudicate the matter a fresh, the request of the management for fresh evidence was allowed. Hence the matter was adjourned to 13.12.2018 for management evidence. On 13.12.2018 the Counsel for the management again sought adjournment on the ground that the workman moved the Hon’ble High Court seeking a clarification whether fresh evidence is mandated in this case. On the request of the management the matter is adjourned to 27.12.2018, finally, for the evidence of the management. Again on 27.12.2018 the management sought further time for adducing evidence on the ground that the matter is still pending before the Hon’ble High Court of Kerala. Further adjournment for evidence of the management was strongly objected to by the Counsel for the workman. However it was decided to give one more chance to the managements to adduce evidence, if any, on 07.01.2019. On 07.01.2019 the management sought further time for adducing evidence. On the earlier proceedings it was made very clear that if the managements fail to produce the evidence on the next date of posting the evidence on the side of management will be closed and no further adjournment for evidence of the management will be given. In view of the above, the request of the management for further evidence is rejected. Further it was also pointed out to the Counsel for the management that there is a direction from the Hon’ble High Court of Kerala to dispose of the matter within a time frame. The matter was posted for hearing on 05.02.2019. The management again sought time which was strongly objected by the Counsel for the workman. On 19.03.2019 when the matter was finally posted for hearing the management filed an IA for reopening the management evidence along with a witness schedule. The IA was allowed and the management was given a final chance to adduce evidence on 29.03.2019. On 29.03.2019 when the matter was posted for evidence of the management finally, the Counsel for management filed another IA to hear the validity of enquiry as a preliminary issue. The workman also filed an IA to close the evidence and take up the matter for hearing. Both the petitions were allowed and the matter was finally adjourned to 29.04.2019 for hearing. On 29.03.2019 the management again pleaded for adjournment on the ground that they are going for a senior engagement. The matter was finally heard on 03.05.2019.

7. The ID along with the claim petition and preliminary issue were heard on 03.05.2019.



8. According to the claim statement filed by the workman, he joined the service of the bank on 09.12.1983. While he was working in Koliyadi branch Wayanad, he was suspended from the service of the bank on 14.03.1994. He was served with a charge sheet on 07.07.1994 after a lapse of four months. The enquiry proceedings started against him on 15.11.1994 after more than 8 months. The workman attended the enquiry on 15.11.1994, 3.12.1994 and 27.01.1995. The Enquiry Officer was biased and was acting in a partisan manner. The proceedings of enquiry was not reflecting the true and correct facts. The Enquiry Officer refused to accept the representation in this regard. The workman was not allowed an advocate or even a co-worker to defend his case. The Presenting Officer did not give the copies of documents, list of documents and list of witnesses in advance. In spite of all the partisan behavior of the Enquiry Officer, the workman co-operated with the enquiry. Through a communication dated 16.02.1995 the Enquiry Officer prohibited the presence of the workman in the enquiry. Thereafter the enquiry proceeded ex parte without allowing the workman to attend the enquiry. The findings of the Enquiry Officer ended up in the dismissal of the workman in June 1996. The entire action of the management is malafied and workman is entitled to be reinstated in service with all consequential benefits.

9. The management denied all the allegations of the workman in their written statement. The present reference is not maintainable as the workman has not availed the opportunity of filing appeal against the order of the Disciplinary Authority as per clause 19.14 of the Bipartite settlement dated 19.10.1966. While the workman was working at Koliyadi branch of the management bank, he was assigned duties of Cashier-in-charge temporarily. He refused to comply with the instructions of the Branch Manager regarding gold loan and also behaved disorderly to his superiors, colleagues and customers and neglected to discharge his duties properly. The Disciplinary Authority decided to conduct an enquiry and pending enquiry the workman was suspended vide order dated 04.03.1994. Subsequently the workman was charge sheeted under various clauses of Bipartite settlement of 1966. The request of the workman to engage an Advocate was denied as per clause 19.1 of Bipartite settlement dated 19.10.1966. It is not correct to say that the workman was not permitted to be defended by a co-worker. The workman wanted to avoid and disrupt the enquiry and the Enquiry Officer felt that it was not possible to conduct the enquiry in the presence of the workman and it was decided to conduct the enquiry in the absence of the workman. The matter was also intimated to the workman. The workman was given a copy of the enquiry report and adequate chance to defend his case before a punishment of dismissal was awarded to him by the Disciplinary Authority.

10. The workman choose to disrupt and disassociate himself with the enquiry proceedings. The enquiry proceedings got delayed only on account of the workman and hence he is not entitled to full wages and allowances as Subsistence Allowance as per Para 5 of the 3<sup>rd</sup> Bipartite settlement.

11. The workman filed a rejoinder stating that the reference is maintainable as appeal from an order of the Disciplinary Authority is not mandatory. The workman never refused to do any work and did not misbehave with his superiors, colleagues and customers. The Enquiry Officer was biased and he was acting at the instructions of the management. The workman fully co-operated with the Enquiry Officer and had never tried to disrupt the enquiry. The delay in enquiry is attributable fully to the management.

12. The workman was examined as WW1. The Enquiry Officer was examined as MW1 and exhibits M1 to M8 were marked on the side of the management. After the case is remitted back by the Hon'ble High Court in Writ Appeal nos.1294/2017, the management sought an opportunity to adduce further evidence. In spite of granting adequate opportunity to the management to adduce fresh evidence, the management failed to do so. The workman did not produce any fresh evidence on his part. The management did not claim an opportunity for further evidence in the event of an adverse order on the preliminary issue of legality and fairness of the enquiry proceedings. Hence it is decided to pass a composite order to decide the industrial dispute after examining the validity of the enquiry as a preliminary issue.

13. The issues that require consideration are;

1. Whether the enquiry is fair and valid ?
2. Whether the findings are supported by legal evidence?
3. What is the relief the workman is entitled to?

#### **14. Issue No. 1**

While the workman was working as Cashier-in-charge he was issued with a charge sheet with 10 charges against him. The gist of the charge sheet is that he disobeyed the instructions of the Bank Manager and used abusing language against the Branch Manager, colleagues and customers.

15. The Enquiry Officer who conducted the enquiry found all charges proved against the workman. The Disciplinary Authority accepted the findings of the Enquiry Officer and dismissed him from service of the bank.

16. The workman challenged the enquiry on the ground of violation of natural justice. The main grounds pleaded by the workman are;

1. The enquiry was conducted behind the back of the workman as he was not allowed to attend the enquiry after the first 3 postings.
2. The workman was not provided the assistance of either an Advocate or a co-worker as defence assistant.
3. The workman was not given either the list of documents or copies of documents relied on by the management.
4. The Enquiry Officer was Manager (Accounts) of Kozhikode branch where as the Presenting Officer was Branch Manager, Feroke branch, and he was issuing directions to the Enquiry Officer.

17. As held by the Hon'ble Supreme Court in various judgments, re-appreciation of evidence before the Enquiry Officer is not proper in a proceedings before this Tribunal. However it may be required to examine the evidence in a limited way to find out whether the principles of natural justice are complied with during the course of the enquiry proceedings. The workman was issued with a charge memo dated 07.07.1994 with 10 charges against him. Vide his reply dated 10.08.1994 at P 7 of Exbt.M1, the workman explained not only his defence against the charges but also the reasons for such an action on his part. Infact this reply to charge memo is the defence of the workman. Since MW1, the enquiry officer refused to record the submissions or accept the representations, the workman sent Exbts.M3, M5,M6, letters by registered post to the Enquiry Officer. In the representations the main request by the workman are;

1. Conduct the enquiry proceedings in English.
2. To record all the deliberations in the proceedings irrespective of the ruling he makes.
3. Provide a carbon copy of the proceedings every day at the end of the proceedings.
4. The Enquiry Officer is not to be dictated by the Presenting Officer.

18. On a perusal of Exbt.no.M1(a), P1, the proceedings of the enquiry, it can be seen that the enquiry started on 15.11.1994. The proceedings of that date indicate that the charged official i.e., the workman was present in the enquiry. The workman handed over a copy of a letter addressed to the Regional Manager II, to the Enquiry Officer. The Presenting Officer interfered and submitted that the enquiry shall be conducted strictly as per instructions. Further the proceedings state that "since the workman refused to co-operate with the enquiry, the future proceedings of enquiry will be conducted exparte". Since there is no indication in the proceedings that the workman expressed any such sentiment it is not clear as to what provoked the Enquiry Officer to make such an observation. On the second day of proceedings, i.e., on 23.12.1994 the workman sought the assistance of a lawyer which was rejected by the Enquiry Officer. The rejection of the request to engage a lawyer was as per the provisions of the Bipartite settlement of 1966. During the course of proceedings the Enquiry Officer asked the workman whether he has brought his defence assistant. The workman answered in the negative and the Enquiry Officer gives a ruling that "since you have not brought any defence Counsel, you have forfeited the right of engaging a defence counsel". The workman wanted to give a written submission regarding the procedure follow in the conduct of the enquiry. This was objected to by the Presenting Officer on the ground that the workman shall be allowed such submissions only when he is given the opportunity. This objection is sustained by the Enquiry Officer. The workman attempted to clarify his position stating that the submission was with regard to the day's proceedings. The objection of the workman was again overruled by the Enquiry Officer.

The Presenting Officer submitted list of witnesses and list of documents. The workman refused to accept the lists. The enquiry was adjourned to 27.01.1995. The workman was present on this date of enquiry also. The Enquiry Officer in the first instance recorded his displeasure about the letters received by him from the workman regarding the conduct of the enquiry and conveyed his decision that he will not be taking those letters into account in the enquiry. While PW1 was being examined by Presenting Officer, the workman pointed out some irregularity in procedure. The response from the Enquiry Officer was that "the defence is trying to disrupt the enquiry by questioning and making unwarranted comments. He is not behaving properly. He shall stop this and talk only when permitted". It is further seen that the leading question by the Presenting Officer was also objected to by the workman. It is seen from the day's proceedings that the workman objected to the marking of documents in the enquiry without giving him a copy in advance and without giving him an opportunity to verify the copy with the original. Towards the end of the proceedings it is recorded that "the workman is threatening the Enquiry Officer, trying to disrupt the enquiry and trying to avoid the enquiry by making seems". On the next date of the proceedings i.e., on 17.03.1995, it is recorded by the Enquiry Officer that "due to unwarranted and arrogant behavior of the defendant in the last sittings and his willful attempt to disrupt the enquiry proceedings and his threatening the Enquiry Officer, Presenting Officer and witnesses, the Enquiry Officer has decided to conduct further proceedings in the absence of the defendant and the Enquiry Officer is fully convinced that further proceedings cannot be conducted in the presence of the defendant". The above decision of the Enquiry Officer was conveyed to the workman through Exbt.M7 letter dated 16.02.1995. The workman communicated the illegality of conducting a disciplinary enquiry in the absence of the charged official vide Exbt..M8 letter dated 04.03.1995. The enquiry thereafter proceeded exparte in the absence of workman. Witnesses were examined, documents were marked and

Presenting Officer was heard without intimating to the workman. The Enquiry Officer submitted his report to the Disciplinary Authority holding that the charges are proved against the workman.

19. The Enquiry Officer were examined as MW1, Exbt.M1 and Exbt.M1(a) were marked through him and he admitted the contents of Exbt.M1(a). The Enquiry Officer also admitted that he wrote Exbt.M7 to the workman communicating his decision not to allow the workman to attend further enquiry against him.

The proceedings of the enquiry are quoted elaborately only to get a bird's view of the way the enquiry was conducted against the workman.

20. According to the Counsel for workman, it is clear from the proceedings of first day that the Enquiry Officer wanted to exclude the workman from the enquiry proceedings. The only allegation against the workman was that he gave a written submission to the Enquiry Officer pointing out certain procedural irregularities in conduct of the enquiry and expressing his non confidence in the Enquiry Officer. The workman was forced to give written submissions as the Enquiry Officer refused to record his objections in the day's proceedings. Since the Enquiry Officer was biased and predetermined to punish the workman, he denied the workman a defence assistant inspite of the fact that the Presenting Officer was a Senior Manager of the bank. When the workman insisted to record his objections in the proceedings and give a decision, the Enquiry Officer recorded that the workman is trying to disrupt the enquiry proceedings. Ultimately the workman was completely barred from attending the enquiry by Exbt.M7. After the 3<sup>rd</sup> day of enquiry, the complete proceedings were behind the back of the workman. Hence the whole proceedings were conducted in violation of the principles of natural justice.

21. The senior Counsel for the management emphasized on the conduct and behavior of the workman during and after the enquiry proceedings citing Exbts.M3, M4 & M5. According to him the genesis of the problem is the transfer of the workman to Koliyadi branch of the management in Wayanad District. It is clear from the proceedings of the enquiry Exbt.M1(a) that the workman wanted the Enquiry Officer to conduct the enquiry on his terms. Once he found that it is not possible the workman tried to derail the enquiry. Exbt.M8 is a clear testimony to the arrogance of the workman. The evidence of WW1 will clearly prove the attitude of workman towards the enquiry and the Enquiry Officer.

22. It is very difficult to accept the argument of the learned senior Counsel for the management. It is in evidence, as discussed earlier, that the Enquiry Officer himself barred the workman from attending the enquiry through Exbt.M7 letter. It is also recorded in Exbt.M1(a) proceedings and admitted by MW1, the Enquiry Officer. It has come in evidence that the workman was denied the assistance of a co-worker in the enquiry by the Enquiry Officer on the ground that he was not ready with a defence assistant on the first day of proceedings. There is no such provision or rule that the workman will forfeit his right to engage a defence assistant if he fails to produce one on the first day of enquiry. The denial of right of assistance becomes more relevant as the Presenting Officer on the side of the management was a qualified Senior Manager. It is also in evidence that the workman was denied the copies of documents in advance before the same was put to witnesses. Copies of documents were denied to the workman on the ground that the list of documents was offered to him by the Presenting Officer, which he refused to accept. The settled law on the subject is that the copies of the documents relied on the management shall be given to the charged official sufficiently in advance, if not along with the charge memo, to facilitate the workman to form his defence and to cross examine the management witnesses.

23. Considering all the above facts and circumstances, I have no hesitation in holding that the enquiry conducted against the workman is in clear violation of the principles of natural justice and the enquiry is not fair and proper.

Hence Issue no.1 is decided in favour of the workman and against the management.

#### **24. Issue No. 2.**

Having found that the enquiry was conducted in clear violation of the principles of natural justice the next question is whether the management is entitled to adduce fresh evidence before this Court to substantiate the charges. There is no pleading in the written statement filed by the management that they shall be allowed to adduce fresh evidence in the event that the enquiry is found to be vitiated on any ground. The question is, at what stage of the proceedings the management shall come with such a pleading. This question agitated the minds of higher judiciary and Constitutional bench of the Apex Court in **Karnataka State Road Transport Corporation Vs Lakshmiddevamma**, 2002 KHC247 settled the law stating that if the management desires to adduce fresh evidence before the Labour Court after the enquiry report is set aside, they shall avail the first opportunity while filing the written statement. The Hon'ble High Court of Kerala in **President, Edayar Ksheerolpadana Sahakarana Sangam Vs Industrial Tribunal, Alappuha**, 2007 (2) KHC 200 reiterated the above position holding further that even an amendment petition filed subsequently by the management to incorporate the relief will frustrate the law laid down by the Hon'ble Supreme Court. In this case also it is seen that the management moved an amendment application for incorporating a relief for fresh evidence when they found that the enquiry report is going to be set aside. However the amendment application was also dismissed by this Court. Hence the management cannot as a matter of right seek to adduce fresh evidence since the same was not included in the written statement.

25. When the matter was remitted back by the Division Bench of Hon'ble High Court of Kerala to this Court in W.A.no.1294/2017 for fresh adjudication, the management came up with a plea of fresh evidence in the composite proceedings. The plea was strongly objected to by the workman. Taking into account the special circumstances of this case this Court allowed the management to adduce fresh evidence in spite of the fact that there is undue delay in the proceedings. As stated earlier, the management was given many chances for producing fresh evidence. In spite of many opportunities the management failed to produce any fresh evidence in this proceedings and the matter was taken up for hearing. On the date the case was posted for hearing the management came up with a fresh application for reopening evidence which was allowed in spite of strong objection by the workman. The management failed to produce any fresh evidence even after availing two more opportunities. In the absence of any fresh evidence the management came with a request for hearing on preliminary issue. Though the plea was allowed in the first instance, the management again sought time for hearing and hence the matter was taken up for composite hearing.

26. The learned senior Counsel for the management relied on the decision of the Hon'ble Supreme Court in **Disciplinary Authority-cum-Regional Manager Vs Nikunj Bihari Patnaik**, 1996 KHC1650 in support of their case. In the above case the issue involved was whether acting beyond authority will amount to misconduct. The dictum laid down in that case has no relevance to the facts and circumstances of this case.

27. Since it is found that the enquiry is conducted in violation of the principles of natural justice and since the management failed to adduce any fresh evidence to support the charges it is held that the findings of the Enquiry Officer were not fair and justified.

Hence the issue is answered in favour of the workman and against the management.

### **28. Issue No. 3**

Having decided Issue nos.1 & 2 in favour of the workman, and having found that the enquiry against workman was vitiated and the management having failed to adduce any fresh evidence to prove the charges against the workman in spite of innumerable opportunities given to them, the inevitable conclusion that follows is that the dismissal of the workman from the service of the management bank is illegal.

29. It was submitted during the course of proceedings that the workman is 75 years old and is suffering age related health issues. The workman would have retired from service on 30.06.2003, had he continued in the service of the bank, on attaining the age of superannuation.

30. This is a case where this court found that the dismissal of the workman is illegal for utter violation of principles of natural justice in the disciplinary enquiry which is the basis of his dismissal. In such cases, as held by Apex Court in **J.K.Sinhetix Vs K.P.Agarwal** (2007) 2 SCC 433, the workman is entitled for not only reinstatement in service with continuity of service but also for back wages and all other consequential benefits.

31. Hence I am inclined to hold that the dismissal of the workman is illegal and he is entitled to be reinstated in service of the management bank with back wages, continuity of service and all other consequential benefits.

### **CP No. 50 of 2017**

32. The workman filed a claim before the Labour Court, Kozhikode under Section 33 C (2) of Industrial Disputes Act, 1957. The claim is for an amount of Rs.56,478.12 towards difference in Subsistence Allowance, being full wages, after one year of suspension as per clause 5 of Bipartite settlement dated 08.09.1993. The Claim Petition was numbered as 5/1998.

33. As per clause 5 of Bipartite settlement of 1993, an employee under suspension is entitled to 1/3<sup>rd</sup> of pay and allowance for first 3 months and thereafter half the pay and allowance. After 1 year an employee under suspension is entitled to full pay and allowance if the enquiry is not delayed for reasons attributable to the concerned employee or any of his representatives.

34. Labour Court, Kozhikode dismissed the claim holding that the delay is attributable to the workman and he is not entitled for the claim. The workman challenged the order of the Labour Court before the Hon'ble High Court of Kerala in W.P.no.24684/2005. The management filed W.P.no.11750/2009 challenging the award of this Court in ID no.167/2006. Both the cases are heard together and the Hon'ble High Court of Kerala found that the findings of fact by the Courts below are contradictory and hence both the cases were remitted back to this Court for joined adjudication. W.A. no.1312/2017 filed against the said order also came to be dismissed.

35. Hence the file pertaining to CP.No.5/1998 was called for from Labour Court Kozhikode, renumbered as CP.50/2017 and was heard along with ID no.167/2006.

36. The management sought many adjournments for producing fresh evidence. In spite of allowing time, the management failed to produce any fresh evidence.

37. No oral evidence was adduced by either of the parties. Exbt.P1 to P11 and R1 and R2 were marked by consent in the original proceedings.

38. The issues for consideration are;

1. Whether the workman is responsible for the delay in the enquiry?
2. Whether the workman is entitled for the claim?

**39. Issue no. 1**

According to the workman, he was suspended from the service of the bank vide order dated 04.03.1994. A Charge Memo dated 07.07.1994 was issued to him on 28.07.1994. He submitted his explanation on 10.08.1994, within stipulated time. Enquiry was ordered vide letter dated 28.09.1994. The first date of enquiry was on 15.11.1994. Management witness was not present on that day. The enquiry was adjourned to 23.12.1994 and further adjourned to 27.01.1995. The workman received a letter dated 16.02.1995 from the Enquiry Officer informing him that he has decided to conduct the enquiry exparte. The further development of the enquiry was not known to the workman till he received a letter dated 27.07.1995 from the Branch Manager Koliyadi branch enclosing there with a copy of the enquiry report. A letter dated 12.12.1995 was received from the Disciplinary Authority for which a reply was given on 26.12.1995. The workman received a letter dated 20.03.1996 on 28.03.1996 from the Disciplinary Authority informing him the proposed punishment. Because of sickness he could not reply in time and the management issued final order dismissing him from service on 27.06.1996. In view of the above the Enquiry Officer and management are responsible for the delay and he is entitled for the benefit claimed by him.

40. According to the management the workman obstructed the conduct of enquiry and Enquiry Officer was forced to postpone the enquiry. Since the workman continued to obstruct the enquiry process the Enquiry Officer barred the workman from attending the enquiry vide letter dated 16.02.1995. The workman was issued a show cause notice dt.11.07.1995 for which the workman replied only on 26.12.1995. Hence the workman is only responsible for the delay in enquiry and he is not entitled for any benefit claimed by him.

41. It is an admitted fact that the workman was suspended as per order dt.04.03.1994. As per clause 5 of Bipartite settlement of 1993, the workman is entitled to half pay and allowances as Subsistence Allowance from 04.06.1994. He is entitled for full wages and allowances as Subsistence Allowance from 04.03.1995, provided the delay in enquiry is not attributable to him. As evidenced from the proceedings of enquiry the first sitting of the enquiry was held on 15.11.1994, after 8 months of suspension of the workman. The workman submitted a copy of a letter addressed to the Disciplinary Authority to the Enquiry Officer expressing his non-confidence in the Enquiry Officer. No further proceedings were taken on that day and the matter was adjourned by a month to 23.12.1994. On 23.12.1994 the Presenting Officer filed list of witnesses and a list of documents. The workman objected to certain procedure being followed in the enquiry and non-production of the documents relied on by the management. The Presenting Officer did not introduce any witness. The enquiry was adjourned by one more month to 27.01.1995 and on that day PW1 was examined. Thereafter the enquiry was adjourned by two months to 17.03.1995 and the proceedings were conducted exparte as the Enquiry Officer decided not to allow the workman to attend the enquiry. No intimation or notice were given to the workman regarding further postings and the enquiry was conducted on various dates. The Enquiry Officer gave his report to the Disciplinary Authority on 30.06.1995. According to the management a copy of the enquiry report was communicated to the workman vide Exbt.P8 letter dt.11.07.1995 directing him to make any submission on the report within 15 days, if he desires to do so. This is denied by the workman. According to the workman he received a letter dt.12.12.1995, Exbt.P9, from the Disciplinary Authority and the same was replied on 26.12.1995. The petitioner received a preliminary order on 20.03.1996 and final order on 27.06.1996. As pointed out earlier the crucial date for deciding the issue is 04.03.1995 when the workman completed one year of suspension. From the facts discussed above it is very clear that the enquiry itself started after 8 months of suspension. The workman was allowed to attend the enquiry only on 3 days. On all these days the enquiry was adjourned by the Enquiry Officer with long gaps in between. It is true that the workman raised some objection regarding the procedure being followed in the enquiry. The Enquiry Officer took it as an obstruction and barred the workman from attending further enquiry. The proceedings thereafter were conducted exparte and the report on findings was given by the Enquiry Officer on 30.06.1995. Even assuming that the report was communicated to the workman vide Exbt.P8 dt.11.07.1995 nothing prevents the management from taking further action if no reply was given within 15 days as specified in Exbt.P8 letter. Exbt.P9 letter is issued after 5 months which is acknowledged by the workman. The final order dismissing the workman was issued on 27.06.1996.

42. From the above chronology of events it is very clear that the workman was not responsible or contributed very little in the delay in finalizing the enquiry. Hence the Issue no.1 is decided in favour of the workman and against the management.

**43. Issue no .2**

There is no serious dispute regarding the quantum of benefit claimed by the workman. Hence it is ordered that the workman is entitled to Rs.56,478.12 (Rupees Fifty six thousand four hundred seventy eight and paise twelve only) as claimed by him towards Subsistence Allowance. Hence Issue no.2 is decided in favour of the workman.

44. Hence the claim is allowed and the management is directed to pay Rs.56478.12 as difference in Subsistence Allowance to the workman.

45. This Court has already decided ID no.167/2006 directing reinstatement of the workman with continuity of service, back wages and all other consequential benefits. Hence a decision in CP no.50/2017 becomes irrelevant as the benefits claimed in the Claim Petition will merge with the findings in the Industrial Dispute. However a separate finding in the CP is entered in view of the direction by the Hon'ble High Court to re-adjudicate both the claims.

In the result an Award is passed finding that the action of the management of State Bank of India in dismissing the services of Sri.P.K.Unni Cashier–Clerk from 27.06.1996 is illegal and is not justified and he is entitled to be reinstated in the service of the bank with back wages, continuity of service and all other consequential benefits.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Assistant, transcribed and typed by him, corrected and passed by me on this the 19<sup>th</sup> day of June, 2019.

V. VIJAYA KUMAR, Presiding Officer

**APPENDIX**

Witness for the workman	-	WW1 - Sri. P. K. Unni
Witness for the Management	-	MW1 - Sri.RamaChandran
Exhibits for the workman	-	Nil

**Exhibits for the Management :-**

M1	-Domestic Enquiry file
M1(a)	-Copy of enquiry proceedings including deposition
M2	-Copy of enquiry notice dated 03.11.1994
M3	-Letter dated 12.11.1994 sent by workman to the Regional Manager of the Bank
M4	-Copy of enquiry notice dated 08.12.1994 issued by Enquiry Officer to the workman
M5	-Letter dated 23.12.1994 sent by the workman to the Enquiry Officer
M6	-Letter dated 13.01.1995 by the workman to the Enquiry Officer
M7	-Notice dated 16.02.1995 issued by the Enquiry Officer to the workman
M8	-Letter dated 04.03.1995 by the workman to the Enquiry Officer

**APPENDIX for CP**

Witness for workman/petitioner	-	Nil
Witness for management /respondent	-	Nil

**Exhibits for workman/petitioner :-**

P1	-Photocopy of the Suspension order dt.04.03.1994
P2	-Photocopy of Charge memo dt.07.07.1994
P3	-Letter of Regional Manager dt.20.08.1994
P4	-Photocopy of the letter of the Branch Manager of the bank dt.17.10.1994
P5	-Photocopy of the letter of Enquiry Officer dt.03.11.1994
P6	-Photocopy of the letter of the Enquiry Officer dt.16.02.1995
P7	-Photocopy of the letter of the Branch Manager dt.27.07.1995

- P8 -Letter of Regional Manager dt.11.07.1995  
 P9 -Letter dt.12.12.1995 from J. Joseph Marimury, Regional Manager  
 P10 -Preliminary order dt.20.03.1996  
 P11 -Punishment order dt.27.06.1996.

### **Exhibits for Respondents/management**

- R1 -Certified copy of the proceedings of enquiry and findings of the enquiry Officer  
 R2 -The printed copy of Memorandum of settlement dt.08.9.1983 and 17.09.1984.

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2237.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 29/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/36/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th December, 2019

**S.O. 2237.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.12.2019.

[No. L-12012/36/2011-IR(B-1)]

B. S. BISHT, Under Secy.

### **ANNEXURE**

### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 06<sup>TH</sup> DECEMBER 2019

**PRESENT :** JUSTICE SMT. RATNAKALA, Presiding Officer

### **CR 29/2011**

#### **I Party**

Sh. Abdullah Khan,  
 No. 37, Bazaar Street,  
 Goutham Puram, Ulsoor,  
 BANGALORE – 560008.

#### **II Party**

The Managing Director,  
 State Bank of India,  
 Head Office, K.G. Road,  
 BANGALORE – 560009.

### **Appearance**

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. N. Venkatesh

### **AWARD**

The Central Government vide Order No. L-12012/36/2011-IR(B-I) dated 24.06.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

**“Whether the action of the management of State Bank of Mysore, Bangalore in imposing the punishment of discharge from service with superannuation benefits on Sh. Abdullah Khan, Ex-Daftry w.e.f. 30.04.2009, is legal and justified? To what relief the workman is entitled?”**

1. The 1<sup>st</sup> Party workman is the ex-employee of erstwhile State Bank of Mysore, amalgamated with State Bank of India.

He was appointed as a Peon on 17.09.1977 and was working at Richmond Town Branch as Daftary, till his discharge in the year 1987. On the complaint of the Bank about the theft of Eight Demand Drafts, he was charge sheeted by CBI Police for the offence 120 (B), 468, 471, 379, 411 and 420 of IPC. He was placed under suspension w.e.f 31.12.1991 followed by Departmental Enquiry. Since, his request to stay the Departmental enquiry during the pendency of criminal proceeding was turned down; he approached the Hon'ble High Court and the enquiry proceeding was stayed. On 24.07.2008, the Special Court acquitted him of the charges; on his acquittal, he requested the Management to revoke his suspension order, but the enquiry was recommenced. After holding the enquiry, the Enquiry Officer submitted his report holding him guilty of charges. The Disciplinary Authority accepted the Enquiry Report and imposed the punishment of discharge from service vide order dated 30.04.2009

The workman alleges that, the enquiry was conducted in violation of principles of natural justice. The Managing director have served a notice on him vide letter dated 12.10.2009, to show cause as to why his gratuity amount of Rs. 1,39,370/- should not be forfeited by the Bank in respect of the loss suffered by the Bank. He is held guilty on the basis of no evidence. The Disciplinary Authority has not applied his mind independently to reach the conclusion that, the charges are proved. The Managing Director of the 2<sup>nd</sup> Party Bank ordered to forfeit his gratuity which is also illegal and unjust.

2. The 2<sup>nd</sup> Party in their counter statement denied the allegations regarding the procedure of enquiry, the findings of the Enquiry Officer and the punishment order. It is contented that, the Management has proved the misconduct during Domestic Enquiry. The gravity of proven misconduct justifies the punishment and it commensurates with the charges proved during the enquiry.

3. On the rival pleadings, touching the fairness of Domestic Enquiry a Preliminary Issue was raised, tried and adjudicated holding that the Domestic Enquiry is fair and proper.

The 1<sup>st</sup> Party there after adduced evidence stating that, ever since his discharge he is not employed anywhere and he is facing financial hardship.

4. Both parties have advanced their argument apart from, Sh. NV for the 2<sup>nd</sup> Party submitted his written brief along with Authorities.

5. The charge against the 1<sup>st</sup> Party workman is, he concealingly removed eight draft leaves from OL series and caused fraudulent encashment of all of them in different Branches in conspiracy with Sh. E.E. Harries, Cashier / Godown Keeper of NGEF of 2<sup>nd</sup> Party, thereby caused heavy financial loss. Schedule to the charge detailed the DD numbers, amount, date of encashment, name of the person in whose favour DD was drawn, the name of the concerned Branch.

During the enquiry the Management examined the Inspector of Police, CBI, ACB, Bangalore, infact he was not the investigating Officer in the criminal case. He was examined by the Management only to identify the statement of the CSE recorded under Section 161 CRPC by the Investigating Officer during his investigation. The statement of this witness was of no avail to the prosecution. The Enquiry Officer himself tried to brand this statement as confession statement for which the witness was not agreeable. The witness had no personal acquaintance of the details of the statement as to the date, time and circumstances of recording the same. He fairly admitted that, he is not the author of the statement which was marked as Mex-1; he only identified the signature of the author of the document. The statement was not the primary documentary evidence, it was an attested true copy of original document which was available in the case file of Sh. G Prabhakaran, Inspector, who had investigated and submitted his charge sheet. During the cross examination, the witness was unable to clarify the contents of the averment in the said statement.

6. The 1<sup>st</sup> Party gave his statement in writing.

7. On conclusion of enquiry, the Enquiry Officer submitted a summing up report pertaining to the 1<sup>st</sup> Party and one Mr. Harries who was also charge sheeted both by CBI and the Department in respect of very same fraudulent withdrawals. In the body of his report, the Enquiry Officer raised three issues for his consideration;

Firstly, theft of drafts and fraudulent encasement;

Secondly, whether the Bank suffered loss;

Thirdly, whether the accused are involved beyond reasonable doubt.

Without taking any pain, without referring to any documentary evidence, the Enquiry Officer answered the first and the second issue affirmatively. Regarding the third issue, he brushed aside the defence relating to requirement of natural justice, non-admissibility of Mex-1 and recording of the statement in the language not known to the accused. On his own the Enquiry Officer considered Mex-1 as circumstantial evidence and presumed it as an admitted document,



recorded his finding as if he is sitting in Appeal over the Judgement of the Special Court and with a cryptic discussion records the finding of guilt in the affirmative to the third issue.

This is a classical example of perverse finding founded on no evidence. Mex-1 is a document which is not acceptable in a Court of Law except the portion which leads to discovery. The 1<sup>st</sup> party workman have disputed said document. Of course, no witness was available to depose in respect of Mex-1, since there was long gap between the period of the incident and the period of enquiry that does not give license to the Enquiry Officer to lean in favour of the Management and knock down the CSE.

As per the available records, the Domestic Enquiry was stayed in view of the Stay Order granted by the Hon'ble High Court. The Disciplinary proceedings were stayed in terms of the Bi-partite settlement entered between the trade Unions and the Banks. Now no one could be blamed for the delay in conduct of the enquiry and non-availability of direct evidence. It is an Industrial adjudication and the workman is a privileged suitor here. Dents and vacuum surfacing in the Enquiry report shall go for the benefit of the workman. The Enquiry Report is biased and drawn up with a prejudged mind; it is definitely a non-speaking and non-reasoned finding. Hence, the action taken by the 2<sup>nd</sup> Party acting on such report is not legal and not justified.

Consequently, the punishment order imposed on the 1<sup>st</sup> party workman deserves to be interfered in exercise of the jurisdiction Under Section 11-A of the ID Act.

8. The workman has crossed the age of superannuation long back. By the impugned order, he lost about 13 years of service, thereby suffered financial loss, which needs to be made good now. He shall be treated as on duty till the date of his superannuation with 50% of the Back wages and consequential terminal benefits, that would suffice to meet the ends of justice.

### AWARD

**The reference is accepted.**

**The punishment order of discharge of the 1<sup>st</sup> Party workman Sh. Abdullah Khan with superannuation benefits w.e.f 30.04.2009 is not legal hence, set aside.**

**The 2<sup>nd</sup> Party State Bank of Mysore presently State bank of India is directed to treat the workman as on continuous duty till the date of his superannuation and pay 50% of the back wages w.e.f. 30.04.2009 till the date of his superannuation along with the proportionate terminal benefits within 60 days of communication of this order, failing which the amount shall carry interest at 6% per annum.**

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2019

**का.आ. 2238.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 18/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2019 को प्राप्त हुआ था।

[सं. एल-12011/69/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 26th December, 2019

**S.O. 2238.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26.12.2019.

[No. L-12011/69/2012-IR(B-1)]

B. S. BISHT, Under Secy.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/18/2013

**Present:** P. K. Srivastava, H.J.S..( Retd)

The General Secretary  
Dainik Vetan Bhogi Bank Karmchari Sangathan  
F-1, Tripti Vihar, Opp. Engineering College  
Ujjain (M.P.)

...Workman/Union

Versus

The Regional Manager,  
State Bank of India  
RBO-III, 5 Y. N. Road,  
Indore (M.P.)

...Management

## AWARD

(Passed on 13<sup>th</sup> day of November, 2011)

1. As per letter dated 1-2-2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/69/2012-IR(B-1). The dispute under reference relates to:

***“1. Whether the claim of Union for regularizing the services of Shri Mahendra alias Mahesh Salvi from the date of termination is legal and justified? If so, what relief the workman is entitled to ?”***

***2. State Bank of India is a Banking Industry?***

***3. The nearest tribunal is CGIT,Jabalpur.”***

2. After registering the case on the basis of reference, notices were sent to the parties.

3. The case of the workman as stated in his statement of claim is that the workman was first appointed on daily wages by the then Manager of State Bank of Indore on 12-4-2005 as a peon. He was in continuous appointment of the said bank till 31-1-2011 and he worked under many Managers, whose names are mentioned in the statement of claim. He requested the management to pay bonus on which he was illegally terminated on -31-1-2011. It is the case of the workman that he worked continuously for more than 240 days in every year, no notice or compensation was given to him by management hence his termination is illegal being violative of section 25(F) of Industrial Disputes Act. He has accordingly requested for relief of setting aside of his termination and his reinstatement with all back wages and allowances.

4. The case of Management is that earlier the branch was under the Management of State Bank of Indore in exercise of powers u/s 35(2) of the State Bank of India Act, 1955. The State Bank of Indore was acquired as sanctioned by Central Govt. vide notification dated 28-7-2010 which came into enforcement after expiry of 30 days i.e. August 27-8-2010. According to Clause 7 and 8 of the notification only permanent officer or employees of transferor bank including officers/employees on probation immediately before the effective date were permitted to continue under transferee bank which is State Bank of India also it was provided that not withstanding anything contained in Industrial Disputes Act,1947 or any other law for the time being in force, the transfer of services of any officer or other employee of transferor bank to the transferee bank shall not entitle such officer or employee to any compensation under the Industrial Disputes Act,1947 or any other law for the time being in force and no such claim shall be entertained by any Court, Tribunal or any other Authority. It is the case of Management that only permanent officers and officials were taken in services of transferee bank. The workman himself admits that he was a daily wager, hence he was not entitled to the option and had no right to continue in the service of transferee bank. The management further denied the claim of the workmen that he had not worked continuously for 240 days or more at any point of time and accordingly has prayed that the reference be answered against the workman.

5. In evidence, though the workman has filed a bunch of photocopy documents but did not care to prove them. The workman has examined himself on oath . Management has examined its witness Hari Singh Dalodiya, Chief Manager on oath .

6. I have heard arguments from both the sides and have gone through the records. Parties have filed memorandum of argument which are on record. I have gone through the memorandum of arguments.

7. Following issues arise for determination in the light of perusal of record and arguments:-

**Issue No. 1:- Whether the workman could successfully prove his engagement for a period of 240 days or more in the year preceding the date of his dis-engagement i.e. 31-1-2011 ?**

**Issue No. 2:-Whether the disengagement /termination of the services of the workman is legal and justified.?**

**Issue No. 3:-Whether the workman is entitled to any relief?**

8. **Issue No. 1:-** The reference is itself vague in the sense that date of termination is not mentioned in the reference hence we will have to seek help of statement of claim to ascertain the date of alleged termination of the workman which is 31-1-2011. According to statement of claim it is to be seen whether the workman has successfully proved that he was in continuous service/engagement of the management for the period of 240 days or more in the year preceding the date of his termination.

9. As stated above, the workman has filed bunch of photocopy of documents. In his statement of oath the workman has stated that he was addressed by two names Mahesh and Mukesh. He continuously worked from 12-4-2005 to 31-1-2011 and was paid wages by both names. He has filed three banker's cheque out of which two are of 12-3-2014 one is in the name of Mukesh and second in the name of Mahesh about which he has stated that this amount is regarding his wages and the third is in the name of Mahendra which is bonus cheque. These photocopy cheques Exhibit w-1 to w-3, he admits that the cheques were in favour of Mahesh and Mukesh. Except his self saving statement that he had worked with the management continuously for a period of 240 days or more in the year preceding his date of termination which ins 31-1-2011, there is nothing on record to prove his this statement either in the form of document or oral evidence. According to him, Mukesh and Mahesh are two names of one and same person there is no evidence to support this claim also except the statement of the applicant workman on oath, hence it is concluded on the basis of this discussion that firstly the claim of the workman that Mukesh and Mahesh are one and the same person is held not proved also the claim that the workman continuously worked under employment of management for a period of 240 days or more preceding the date of the retirement i.e. 31-1-2011 is also held not proved. **Issue No.1 is answered accordingly.**

10. **Issue No.2:-** In the light of the findings recorded in Issue No.1 the termination/dis-engagement of the workman is held legal and justified. **Issue No.2 is answered accordingly.**

11. **Issue No.3:-** In the light of findings recorded in issue No.1 and Issue No.2 the workman is held entitled to no relief. **Issue No.3 is answered accordingly.**

12. **On the basis of above discussion, following award is passed:-**

**A. Accordingly the action of Management in terminating /disengaging of the workman is held legal and justified.**

**B. The claimant is held entitled to no relief.**

**The reference is answered accordingly.**

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE:13.11.2019

नई दिल्ली, 30 दिसम्बर, 2019

**का.आ. 2239.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 12/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/96/2016-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 30th December, 2019

**S.O. 2239.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank, and their workmen, received by the Central Government on 30.12.2019

[No. L-12012/96/2016-IR(B-II)]

SEEMA BANSAL, Section Officer

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT**  
**CHENNAI**

**Present :** DIPTI MOHAPATRA, LL.M. PRESIDING OFFICER

**I.D. No. 12/2017**

18<sup>th</sup> Dec., 2019

Sri K. K. Shanmugam  
 S/o. Sh. Kairan,  
 Vettaikaran Pudur (Via),  
 Kaliapuram, Pollachi Taluk,  
 Pollachi

:

1<sup>st</sup> Party/Petitioner

**AND**

The Zonal Manager  
 Indian Bank, HRM Department,  
 Zonal Office, 2<sup>nd</sup> Floor,  
 31, Variety Hall Road,  
 Coimbatore-641001

:

2<sup>nd</sup> Party/Management

**Appearance:**

For the 1<sup>st</sup> Party/Petitioner : Sri J. Suresh, Authorised Representative

For the 2<sup>nd</sup> Party/Management : M/s. T.S. Gopalan & Co., Advocates

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/96/2016-IR (B.II) dtd. 06.03.2017 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

*“Whether the action of the management of Indian Bank, Zonal Office, Coimbatore in dismissing the service of K.K. Shanmugham, an ex-part time Sweeper with effect from 09.02.2015 is legal and justified? If not, to what relief the workman is entitled to?”*

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered in ID No. 12/2017 and notices were issued to both the parties for their appearance. The First Party Petitioner's case in a nutshell is that he entered into service of the Respondent as a Part-Time Sweeper in the month of February 2013 and promoted to the post of Clerk-cum-Cashier at Kattampatti Branch. While the matter stood thus, was put under suspension, vide order 20.05.2014 by the AGM, the Competent Authority of the Respondent on certain allegation of misappropriation and receipt of fraudulent payment of the customers money. The preliminary enquiry was accordingly held. Charges were established against him. The enquiry was concluded following a major punishment of dismissal him from service vide order dtd 09.02.2015 which was challenged before the Appellate Authority. The petitioner did not succeed. The Appellate Authority vide its order dtd. 30.11.2015 dismissed the Appeal confirming the order of the Disciplinary Authority dtd. 09.02.2015. Finding no other way out, the petitioner approached the Labour Machinery raising the dispute. Hence the reference. The order of dismissal of him from job while is challenged as beyond the principles of natural justice, the petitioner prays for his reinstatement with consequential reliefs.

3. The Respondent entered appearance filing its Counter Statement traversing almost all the averments on the ground that the Domestic Enquiry was fair and proper. The charges established against the petitioner are grave in nature. The order of the Disciplinary Authority dtd 09.02.2015 was justified and confirmed by the Appellate Authority. It is further contented that the petitioner is not entitled to any relief as sought for. The Respondent advances that, Annie Margaret Regina, the then Branch Manager, Kattampatti Branch informed the Zonal office regarding misappropriation of cash by one of the Staff-Clerk-cum-Cashier, one Chockalingam and the complicity of the petitioner in the whole process. The Petitioner facilitated Chockalingam by forging the signatures of the customers and borrowers, for withdrawal of cash from respective accounts and both of them have been enjoying the withdrawal amount. Necessary instructions was imparted to conduct investigation. Pursuant to the direction the Senior Manager, K. Shiva Kumar, Zonal Office, Coimbatore took up the charge of investigation. It is alleged that the petitioner while working as Clerk at Kattampatti Branch, he in connivance with the then Clerk-cum-Cashier viz. Chockalingam of the same Branch committed fraud on Bank by misappropriating and receiving fraudulent payments, etc. as per the charge framed against him. The fact of specified allegations in the charge will be discussed later at the time of need. Accordingly, enquiry was

initiated wherein J. Benedict Christu Das, the Chief Manager, Indian Bank, Trichy Road, Coimbatore while was appointed as Enquiry Officer, K. Nagarajan was the Presenting Officer. The enquiry was concluded establishing the charges against the petitioner. It is further contended by the Respondent that on the basis of the enquiry report and when the charges established against the petitioner was grave and serious in nature, the quantum of punishment imposed by the Disciplinary Authority is justified and appropriate, hence the petitioner is not entitled to any relief as sought for.

4. The following issues emerge basing on the pleadings of the parties:

- (i) If the charges are established against the petitioner?
- (ii) If so, whether the punishment imposing dismissal of the petitioner from service defeats the principles of natural justice?
- (iii) To what relief?

5. In order to substantiate the case the petitioner himself adduced evidence as WW1 in support of his Claim Statement and relies on a number of documents marked as Ext.W1 to Ext.W25. The Second Party Respondent while chose not to adduce any oral evidence produced four documents marked as Ext.M1 to Ext.M4. After closure of the case arguments were advanced by both the parties through their Representing Counsel and Authorized Representative.

#### **Issues (i) & (ii)**

6. Since both the issues are interlinked inter-alia so far as the fact and law are concerned, taken up together for a common convenient discussion. The undisputed admitted fact of both parties remain that the petitioner initially while was appointed as Part-time Sweeper in April 2013 under the Respondent Bank was promoted to Clerk-cum-Cashier at Kattampatti Branch. Sri K. Shiva Kumar, Senior Manager, Zonal Office, Coimbatore investigated into the matter of the complaints received on different angles of the customers/borrowers of the said Branch. Memo of Charge was accordingly framed in view of the report of the Investigating Officer. It revealed from the investigation that on 19.03.2014, one customer, M. Lata remitted Rs. 70,000/- towards her loan account. The necessary counterfoil and receipt were issued by the then Clerk-cum-Cashier, Chockalingam. On 09.05.2014 when the customer came to the Bank to close the LOD (Loan on Deposit) then only it came to notice that it was never credited / remitted towards the LOD of the customer by Chockalingam. The petitioner even though aware of the fact of non-credit of the amount did not inform the Authority regarding the misappropriation but borrowed Rs. 30,000/- as Interest Free Loan from Chockalingam out of the said amount. Chockalingam admitted such fact in his submission dtd. 17.05.2014 before the Investigating Officer. The report of the Investigating Officer at Page No. 50 (Ext.W16) is referred.

So far the second charge is concerned, one K. Swaminathan has made a complaint regarding unauthorized transaction of withdrawal of Cash, was made on several occasions from his Bank Account without his knowledge. It reveals from the investigation that four such transaction of withdrawal was found in the SB Account of the complainant no. 782220094 and fraudulent payment was made in favour of the petitioner on dtd. 22.03.2014 for Rs. 10,000/-, dtd.15.04.2014 for Rs. 5,000/-, dtd. 23.04.2014 for Rs. 5,000/- and 08.05.2014 for Rs.15,000/-. The petitioner was found to have forged the signatures of the complainant-borrower, Swaminathan and the amount accordingly was debited from the said account by Chockalingam and paid to the petitioner. It is held that the petitioner received the fraudulent payments from the Cashier, Chockalingam.

7. On 24.03.2014 the petitioner received an amount of Rs. 10,000/- from one Kanniammal to credit the same to her loan account no 861340403. The petitioner issued the necessary counterfoil to the customer affixing the seal of the Bank. But it was never remitted to the Loan Account and misappropriated by the petitioner. Similarly, it was also revealed from investigation that the petitioner in similar manner though received cash of Rs. 10,000/- from one Sundarammal in the first week of May 2014 did not deposit the same in her SB Account but misappropriated. The loan customer, one Parman, though paid Rs. 5,500/- to deposit in his Jewel Loan Account it was never been deposited so also Rs. 5,000/- of the SB Account customer, Kandasamy, though received by the petitioner was never remitted to his account and the petitioner on the other hand misappropriated the amount of the customers. It reveals the Investigating Officer, the Senior Manager investigated the complaints taking into account all material facts based on the records. There were no infirmities or any lapses in the investigation, the Competent Authority held the charges are the petitioner on the other hand misappropriated the amount of the customers. It reveals the Investigating Officer, the Senior Manager investigated the complaints taking into account all material facts based on the records. There were no infirmities or any lapses in the investigation, the Competent Authority held the charges are established against the petitioner and issued the Charge Sheet specifying the charges which lead to the enquiry.

8. The petitioner was afforded with necessary opportunity to reply the alleged charges and for participation in the Enquiry through his Authorized Representative or the Counsel of his choice. The petitioner chose to take the assistance of the Authorized Representative. The Enquiry Officer being assisted by Presenting Officer, Sh. K. Nagarajan, Senior Manager, Zonal Office, Coimbatore carried out the enquiry. The Presenting Officer placed all necessary documents including the investigation report of the investigation furnished by Sh. K. Shiva Kumar, Senior Manager. The enquiry was conducted, examining the complainant-customers and all other important witnesses. The charges were established. The petitioner was held guilty of the charges and served with notice on the proposed punishment. He was also afforded with sufficient opportunity for the Second Show Cause and for personal hearing. This fact is admitted by the petitioner during his cross examination. Taking into account the entire fact involved in the case of established charges, the Disciplinary Authority served order dtd. 09.02.2015 on the petitioner for dismissal him from service. The petitioner approached the Appellate Authority but did not win the case. The Appellate Authority vide its order dtd. 30.11.2015 confirmed the order of the Disciplinary Authority dtd. 09.02.2015. At the outset the Learned Counsel for the Respondent also highlights that during the course of enquiry the petitioner (CSE) volunteered and remitted back the money in dispute taking moral responsibilities, which was never been accepted by the Respondent as such remittance would no way deserves any consideration. Further, the very action of the petitioner does not abdicate him from the morals as a Public Servant.

9. In view of the arguments advanced by the Authorized Representative and the Representing Counsel for the Respondent, the relevant documents, the exhibits are taken into consideration. At the outset it would not be out of place to mention that the petitioner himself while was examined as WW1, states to have received the terminal benefits in Para-3 of his Examination-in-Chief. But at the same time it is further stated by him that the terminal benefit disbursed in his favour was not sufficient to fulfill his bare needs such as to meet the expenses for maintenance of day to day life of him as well as his family members. Due to unemployment he is unable to meet the educational expenses of his Son who wants to pursue further studies. Besides the Authorized Representative on his behalf and in support of the evidence adduced by the petitioner, submits to pass a sympathetic order in favour of the petitioner. Accordingly submits to consider the length of service rendered by the petitioner, his overage as he already crossed the age of superannuation and also the financial burden. The Authorized Representative while advances argument on behalf of the petitioner did not dispute the charges established against the petitioner but tries its best to draw the sympathy of the Tribunal for modification of the quantum of punishment from dismissal to compulsory retirement, so as to enable the petitioner to get all financial entitlements including the pension benefits and to maintain his rest of his life peacefully.

10. But in the peculiar circumstance when the petitioner himself admitted to have misappropriated the alleged amount as per the charge, in connivance with Sh. VR Chockalingam, (who was also faced the enquiry and dismissed from service), it is felt the prayer of the petitioner and the submission of the Authorized Representative on his behalf deserves no sympathetic consideration. The admission of the petitioner none else than a PTS who was promoted to the post of Clerk and entrusted with a responsibilities, when dare to forge signatures of the customers without their knowledge that too on the behest of the then Clerk-cum-Cashier, Chockalingam for the obvious purpose as per the charges established against him, certainly his such act amounts to gross misconduct which is unbecoming on the part of a Public Servant. The petitioner is found to have been in active participation in the commission of the fraud, in association with other staff, VR Chockalingam and caused serious financial irregularities in the Respondent's Bank transaction. The charges established against him are grave in nature. The contentions of the Respondent's Counsel has got sufficient force to take into account that in the given fact and circumstance, the petitioner does not deserve any sympathetic consideration as much as the act of commission of fraud by the petitioner when causes damage and reputation to the Respondent's Bank.

Undoubtedly, the Respondent Bank is a Nationalized Bank of high repute. The general public repose confidence on such Bank as from the core of their heart as they do feel that all monetary transactions are done in such Bank with high security. The money and valuables of the public are deposited and kept under safe custody of the Bank. Further, the general public also prefer to borrow loan from such Nationalized Bank other than any Private Financial Institutions. Under different scheme when the loans are sanctioned in favour of such borrowers, they use to repay the loan instalments in stipulated period of time to avail further loan facilities as bonafide customers, but it is a matter of concern that the instalments/any payment when are made by the customers, such Dealing Assistants as petitioner without remitting the same to the respective accounts of the customers/borrowers dare to misappropriate for the obvious purpose. The employees of different cadre who are directly or indirectly connected to such transactions and daily affairs of the Bank

are under moral obligation to discharge their duties diligently with high degree of carefulness to maintain the dignity and reputation of the Bank. But unfortunately when such employees who are holding the responsible posts, are playing fraud on Bank by committing financial irregularities and misappropriating the customer's money etc. certainly do not deserve any leniency as much as when the charges are established.

11. As such, in view of the discussion held in preceding paragraphs, the materials borne out from the evidence on record it is held that the quantum of punishment imposed by the Disciplinary Authority sounds reasoned thus justified and warrants no interference. In the result, both the issues (i) & (ii) are answered.

**Issue No. (iii)**

12. The petitioner since already disbursed with the terminal benefits, is not entitled to any further relief as sought for. Hence the Award.

The reference is accordingly answered.

Hence the Award is passed against the petitioner.

DIPTI MOHAPATRA, Presiding Officer

**Witnesses Examined :**

For the 1<sup>st</sup> Party/Petitioner : WW1, Sh. K. K. Shanmugam

**Documents Marked:-**

**On the petitioners side**

Ex.No.	Date	Description
Ex.W1	02.06.2014	Charge Sheet
Ex.W2	Nil	Enquiry Proceedings
Ex.W3	16.05.2014	Letter Anne Margaret Regina
Ex.W4	17.05.2014	Interrogation Statement obtained from Sh.Shanmugam
Ex.W5	17.05.2014	Interrogation Statement obtained from Sh.VR Chokkalingam
Ex.W6	17.05.2014	Representation Addressed to Branch Manager by M.Subbathal
Ex.W7	Nil	Letter of Sh.K. Swaminathan to the Branch Manager
Ex.W8	Nil	Withdrawal Slips – 4 Nos.
Ex.W9	26.05.2014	Investigation Report
Ex.W10	24.05.2014	Letter of Kanniamal
Ex.W11	24.05.2014	Letter of Annie Margret Regina
Ex.W12	27.05.2014	Interrogated statement of Sh. K.K. Shanmugam
Ex.W13	Nil	Letter of Sundarammal
Ex.W14	19.06.2014	Letter of Annie Margret Regina
Ex.W15	06.06.2014	Investigation Report Sh. Vasudevan
Ex.W16	20.09.2014	Presenting Officer Brief
Ex.W17	04.10.2014	Defence Brief
Ex.W18	13.11.2014	Enquiry Officers Findings
Ex.W19	30.11.2014	Comments of Enquiry Officers Findings
Ex.W20	30.12.2014	Second Show Cause Notice
Ex.W21	09.02.2015	Speaking Orders of the Disciplinary Authority
Ex.W22	20.03.2015	Appeal against the punishment
Ex.W23	31.12.2015	Speaking Orders of the Appellate Authority

Ex.W24	21.02.2015	Dispute u/s 2A of the I.D. Act
Ex.W24	04.07.2016	Counter Reply by the Management

**On the Respondent side**

<b>Ex.No.</b>	<b>Date</b>	<b>Description</b>
Ex.M1	20.05.2014	Memo issued by the Indian Bank, Vigilance Department
Ex.M2	05.09.2014	Charge Sheet issued by the Indian Bank, Vigilance Department
Ex.M3	09.06.2017	Statement of Pension Calculation & Purchase Price of Annuity
Ex.M4	14.09.2017	Statement from the Respondent

नई दिल्ली, 30 दिसम्बर, 2019

**का.आ. 2240.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक आफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकत्ता के पंचाट (संदर्भ सं. 10/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.12.2019 को प्राप्त हुआ था।

[सं. एल-12011/05/2017-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 30th December, 2019

**S.O. 2240.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the Industrial dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 30.12.2019

[No. L-12011/05/2017-IR(B-II)]

SEEMA BANSAL, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Reference No. 10 of 2017**

**Parties:** Employers in relation to the management of Central Bank of India, Kolkata

**AND**

**Their workmen**

**Present:** Justice Ravindra Nath Mishra, Presiding Officer

**Appearance:**

On behalf of the Management : None

On behalf of the Workmen : None

State: West Bengal.

Industry: Banking

Dated: 17<sup>th</sup> December, 2019

**AWARD**

By Order No.L-12011/05/2017-IR(B-II) dated 20.03.2017 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

*“Whether the action of the management of Central Bank of India, Regional Office (North) 33, N.S. Road, Kolkata regarding non-implementation of settlement/award dated 24.02.2014 of liftman for payment of double wages to perform the duties on 19.04.201, Sunday, Holiday is legal and justified? If not, what relief the workmen are entitled to?”*



2. When the case was taken up today for hearing, none appeared on behalf of the parties concerned. It appears from the record that after the reference, notices were issued to the parties and in response to which the both the parties appeared and the union filed statement of claim, but the management did not file any written statement in reply to the same. Management, however on 13.07.2017 filed an application stating that the matter has been settled, but the union refuted the same. Again on 28.03.2019 Authorized representative of the management submitted before the Tribunal that the money claimed in his case has already been paid to the workman after filing statement of claim by the union, but the bank could not file document along with affidavit to substantiate above submission inspite of direction to that effect. The union stopped appearing before the Tribunal since 31.07.2018 i.e. eight consecutive dates and did not take any step to pursue its claim by adducing any evidence. It may be that since the workman has been paid the amount actually due to him, the union lost interest in the matter.

3. On consideration of the facts and circumstances of the case, it appears that the union has no grievance at present in respect of non-implementation of settlement/award dated 24.02.2014 of liftman for payment of double wages to perform duties on 19.04.2015, Sunday, Holiday as mentioned in the order of reference. Therefore, there exists no dispute for adjudication.

4. Therefore, the reference is disposed of accordingly.

Justice RAVINDRA NATH MISHRA, Presiding Officer

Dated, Kolkata,

The 17<sup>th</sup> December, 2019

नई दिल्ली, 30 दिसम्बर, 2019

**का.आ. 2241.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 7/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/126/1993-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 30th December, 2019

**S.O. 2241.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/1994) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 30.12.2019.

[No. L-12012/126/1993-IR(B-II)]

SEEMA BANSAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/7/1994

**Present:** P. K. Srivastava, H.J.S.( Retd)

Shri Satyendra Singh Gujar  
S/o Shri Surya Kumar  
P.O.Thatipur,  
Gwalior (M.P.)

...Workman

**Versus**

The Regional Manager  
Bank of India  
Regional Office Jhansi Raod  
Gwalior (M.P.)

...Management

#### AWARD

(Passed on this 3<sup>rd</sup> day of December, 2019)

1. As per letter dated 17-1-1994 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.12012/126/93/IR(B-II). The dispute under reference relates to:

*“Whether the action of the management of Bank of India, Gwalior in terminating the services of Shri Satyendra Singh Gujar is legal and justified? If not, to what relief, the workman is entitled to ?”*

2. After registering the case on the basis of reference, notices were sent to the parties.
3. The case of the workman as stated in his statement of claim is that he was first engaged as watchman at M/s Gwalior Rolling Mill, Maharajpura in March, 1983. His services were terminated in August, 1988, thereafter he was re-engaged on 6-6-1989 by Management Bank. He worked in the Bank up to 8-11-1989, thereafter his services were terminated.
4. He first filed a case before the Hon'ble High Court against the order of his termination which was dismissed with liberty to raise industrial dispute in this respect. Thereafter, he raised a dispute before the appropriate Government. After failure of conciliation proceedings the dispute was referred to this Court for adjudication. According to the workman, he had completed more than 240 days in continuous service in the year preceeding the date of his termination. He was not paid any compensation/notice salary, hence his termination is violative of Section 25(G) of I.D.Act, 1947. He has sought a relief of his reinstatement with back wages and all service benefits setting aside his termination.
5. The Management Bank has simply denied the allegations and has pleaded that he was never an employee of Bank, he was never engaged by the bank in any capacity and accordingly prayed that the reference be answered against the workman.
6. This case has chequered history. The workman absented himself, hence no dispute award was passed by my learned Predecessor on 1-5-1995. The workman filed Writ Petition No. 1797/2004 which was decided by Hon'ble High Court vide order dated 10-8-2010 setting aside the no dispute award passed by my learned Predecessor. This Court was directed by Hon'ble High Court to decide it afresh in accordance with law. After re-institution of the case in the light of the aforesaid direction of Hon'ble High Court, repeated notices were issued to the workman since 2011 and were served but the workman did not appear. The last notice was issued on 6-3-2019 wherein it was returned unserved as the workman was not found living on that address, hence closed the evidence of workman vide order dated 3-7-2019 and the Management was given opportunity to file evidence. The Management filed affidavit of its witness Sudhakar Deshattiwar, Chief Manager Bank of India as its examination-in-chief which is uncross-examined.
7. At the stage of argument, none appeared for the workman, hence heard the arguments of learned counsel for management Shri A.K. Shashi and have perused the file.
8. **The reference is the point in issue in the case.**
9. The burden to prove the allegations regarding disengagement and continuous service of Management for 240 days in the year preceeding the date of his termination is on workman which he has failed to discharge. On the other hand the uncontroverted affidavit of management witness as his examination-in-chief has proved their case that the workman was never appointed by Management.
10. Accordingly, there is nothing on record to hold that the dis-engagement, if any, of the workman is violative of law. The workman is held entitled to no relief.
11. In the result, award is passed as under:-
  - A. **The action of the management in dis-engaging the workman Satyendra Singh Gujar on 8-11-1989 is held legal and justified.**
  - B. **The workman is held not entitled to any relief.**
12. Let the copies of the award be sent to the Government of India, Ministry of Labor & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 3-12-2019

नई दिल्ली, 30 दिसम्बर, 2019

**का.आ. 2242.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 3/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/84/2016-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 30th December, 2019

**S.O. 2242.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank, and their workmen, received by the Central Government on 30.12.2019.

[No. L-12012/84/2016-IR(B-II)]

SEEMA BANSAL, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI****Present : DIPTI MOHAPATRA, LL.M. PRESIDING OFFICER**

**I.D. No. 3/2017**  
**19.12.2019**

Sri V.R. Chockalingam  
 No. 44, Sakthi Vinayagar Layout  
 Sai Tamil Primary School  
 Suleeswaranpatti  
 Pollachi

:

1<sup>st</sup> Party/Petitioner**AND**

The Zonal Manager  
 Indian Bank, HRM Department  
 Zonal Office, 2<sup>nd</sup> Floor, 31  
 Variety Hall Road  
 Coimbatore.

:

2<sup>nd</sup> Party/Management**Appearance:**

For the 1<sup>st</sup> Party/Petitioner : Authorized Representative, Sri J. Suresh

For the 2<sup>nd</sup> Party/Respondent : Advocate, M/s. T.S. Gopalan & Co.

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/84/2016-IR (B.II) dtd. 12.01.2017 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

*“Whether the action of the management of Indian Bank, Zonal Office, Coimbatore in dismissing the service of Sri V.R. Chockalingam, SR No. 29406, an ex-clerk with effect from 09.02.2015 is legal and justified? If not, to what relief the workman is entitled to?”*

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered in ID No. 3/2017 and notices were issued to both the parties for their appearance. The First Party Petitioner's case in a nutshell is that he entered into service of the Respondent as a Sub-Staff in the year 1987 at Kattampatti Branch then transferred to Pollachi Branch. He was promoted as Clerk in the month of May, 2013 and posted at Kattampatti Branch. While the matter stood thus, he was put under suspension during the year 2014 by the AGM, the Competent Authority of the Respondent on certain allegation of misappropriation of the cash of the customers. The preliminary enquiry was accordingly held. Memo of Charges was issued on him on 02.06.2014, on the basis of the investigation was held. Enquiry was initiated, the charges were established against the petitioner. The enquiry was concluded following a major punishment of dismissal from service vide order dtd. 21.02.2016. Being aggrieved with the order, the petitioner approached the Labour Machinery raising the dispute. The dispute could not be resolved there. Thus, the Failure Report was sent to the Appropriate Government which referred the schedule of reference to this Tribunal for adjudication. Hence the reference. The order of dismissal of him from job while is challenged as beyond the principles of natural justice, the petitioner prays for his reinstatement with consequential reliefs.

3. The Respondent entered appearance filing its Counter Statement traversing almost all the averments on the ground that the Domestic Enquiry was fair and proper. The charges established against the petitioner are grave in nature. The order of the Disciplinary Authority dtd 21.02.2016 was justified and confirmed by the Appellate Authority. It is further

contented that the petitioner is not entitled to any relief as sought for. The Respondent advances that, Annie Margaret Regina, the then Branch Manager, Kattampatti Branch, informed vide her letter dtd. 24.05.2014 to the Zonal office regarding misappropriation of cash by the petitioner while working as Clerk-cum-Cashier at Kattampatti Branch. The Petitioner was facilitated to commit such misappropriation of cash of the customers by one of the staff (initially in the year 1985 joined as PTS, later in the year 1987 enrolled as Sub-Staff and then promoted to Clerk) viz. K.K. Shanmugham who forged the signatures of the customers and borrowers of the Bank for the purpose of withdrawal of cash from respective accounts and both the petitioner and Shanmugham were enjoying the withdrawal amount. Necessary instructions was imparted to conduct investigation. Pursuant to the direction the Senior Manager, K. Shiva Kumar, Zonal Office, Coimbatore took up the charge of investigation. It is alleged the petitioner while working as Clerk-cum-Cashier at Kattampatti Branch, he in connivance with the then Clerk viz. Shanmugham of the same Branch committed fraud on Bank by misappropriating by withdrawing cash, non-remitting the cash received from the customers to their respective accounts etc. as per the Charge framed against him. The fact of specified allegations in the charge will be discussed later at the time of need. Accordingly, enquiry was initiated wherein J. Benedict Christu Das, the Chief Manager, Indian Bank, Trichy Road, Coimbatore while was appointed as Enquiry Officer, K. Nagarajan was the Presenting Officer. The enquiry was concluded establishing the charges against the petitioner. It is further contended by the Respondent that on the basis of the enquiry report and when the charges established against the petitioner was grave and serious in nature, the quantum of punishment imposed by the Disciplinary Authority is justified and appropriate, hence the petitioner is not entitled to any relief as sought for.

4. The following issues emerge basing on the pleadings of the parties:

- (i) If the charges are established against the petitioner?
- (ii) If so, whether the punishment imposing dismissal of the petitioner from service defeats the principles of natural justice?
- (iii) To what relief?

5. In order to substantiate the case the petitioner himself adduced evidence as WW1 in support of his Claim Statement and relies on a number of documents marked as Ext.W1 to Ext.W13. The Second Party Respondent preferred to adduce evidence through one of its witness Joseph Nidhiry, the Senior Manager (Law) at HRM Department, Indian Bank, Corporate Office, Chennai as MW1 and relied on 60 nos. which are marked as Ext.M1 to Ext.M60. After closure of the case, arguments were advanced by both the parties through their Representing Counsel and Authorized Representative.

#### **Issues (i) & (ii)**

6. Since both the issues are interlinked inter-alia so far as the fact and law are concerned, taken up together for a common convenient discussion. The undisputed admitted fact of both parties remain that the petitioner initially while was appointed as Part-Time Sweeper in the year 1985 at Kattampatti Branch, then enrolled as Sub-Staff in the year 1987 and worked for some years at Pollachi Branch. Then promoted as Clerk in the year 2013 and worked at Kattampatti Branch. Sri K. Shiva Kumar, Senior Manager, Zonal Office, Coimbatore investigated into the matter of the complaints received from different corners of the customers/borrowers of the said Branch. Memo of Charge was accordingly framed in view of the report of the Investigating Officer. It revealed from the investigation that on 19.03.2014, one customer, M. Latha remitted Rs. 70,000/- towards her loan account. The petitioner issued the necessary counterfoil and receipt. On 09.05.2014 when the customer, Mrs. Latha came to the Bank to close the LOD (Loan on Deposit) then only it came to her knowledge that it was never credited / remitted towards her LOD. On the other hand on being asked by Shanmugham, the Clerk of the same Branch, he paid him Rs. 30,000/- as Interest Free Loan from the said amount. The letter dtd 09.05.2014 of the then Branch Manager, Annie Margaret Regina to Zonal Office, Coimbatore discloses that she received complaint from M. Latha. Besides, the petitioner, Chockalingam admitted the commission of misappropriation during his interrogation held by Vigilance Officer at Zonal Office, Coimbatore (attention drawn to the English translation of the documents filed by the Respondent). It also finds support from the Investigation Report dtd. 06.06.2014 of Sri, Vasudevan. R. (Vigilance) (Referred Ext.M29 at Page 59 of Respondent Typeset). It reveals that on being directed by AGM (SIC), H. Subramaniam, SM (HRM) and R. Vasudevan, SM (Vigilance) of Zonal Office have visited the Kattampatti Branch on 09.05.2014 to investigate the alleged misappropriation of cash committed by the petitioner. During the course of investigation, the complainant M. Latha was interrogated .

So far the other charges are concerned, the petitioner though received 65000 from the one K. Krishnaswamy one Jewel Loan borrower on 08.05.2014, did not credit the same to his Loan Account vide no 6127800670 but misappropriated ,on the same day 08.05.14. The petitioner in similar manner misappropriated Rs. 10,000/- of the Borrower, one Natarajan without crediting the same to his Loan Account no. 6193262439. On 09.04.2014, though the petitioner received cash of Rs. 14,000/- from one Deivathal, did not credit the same to her LOD 6015294536 but misappropriated. The petitioner was also charge sheeted for further allegation of receipt of cash of Rs. 70,000/- on 07.03.2014 from one Subhathal, did not credit the same to her LOD No. 6194636959 but

misappropriated. On 21.04.2014 while the petitioner was working as Cashier in the same Branch in a similar manner though received Rs. 21,000/- from one Thamarai Kannan, did not credit the same to his LOD Account No. 6201594446. The amount is found to have been misappropriated by the petitioner.

On 22.03.2014, while the petitioner was in the same capacity at Kattampatti Branch made fraudulent payment of Rs. 10,000/- and Rs. 5,000/- debiting from the SB A/c No. 782220094 of one K. Swaminathan to one KK Shanmugham of the same branch without verifying the specimen signature. Similarly on 15.04.2014, he made the fraudulent payment debiting from the same account of K. Swaminathan to KK Shanmugham and also on 08.05.2014 he made such fraudulent payment in favour of KK Shanmugham debiting the same SB Account of K. Swaminathan without verifying the signature.

7. The Respondent drew attention to the statements of the affected beneficiaries/borrowers recorded during their interrogation by the Investigating Officer as well as the Enquiry Officer. The statements since recorded in Tamil, the Respondent produced the English Translation of the respective witnesses. The statement of the petitioner admitting the misappropriation marked as MEX.10 at Page-22--23 dtd. 09.05.2014. After going through the English Translation of the statement of the petitioner it reveals that the petitioner admitted the alleged misappropriation committed by him. Besides, the English Translation of interrogation of its co-worker, KK Shanmugham discloses that the petitioner in connivance with him dared to misappropriate the same. The categorical charges have been framed and the above named account holders, the Borrowers made their statements during the interrogation. On further perusal of the relevant documents on record, it reveals the investigation was conducted none else but by a Senior Manager. During the course of the investigation, he being a responsible Officer found to have taken into account all the material facts based on the records. There were no infirmities or any lapses in the investigation. As such, he being the Competent Authority in this regard arrived at a right conclusion that the charges are established against the petitioner. The Memo of Charge was served on the petitioner adopting the right procedure specifying the details of the charge. The petitioner was afforded with necessary opportunity to reply the alleged charges and for participation in the Enquiry through his Authorized Representative or the Counsel of his choice. The petitioner chose to take the assistance of the Authorized Representative. The Enquiry Officer, J. Benedict Christu Das, the Chief Manager being assisted by presenting officer, Sh. K. Nagarajan, Senior Manager, Zonal Office, Coimbatore carried out the enquiry. The Presenting Officer placed all necessary documents including the investigation report of the investigation furnished by R. Vasudevan, SM (Vigilance), Zonal Office. The enquiry was conducted, examining the complainant-customers viz. K. Krishnaswamy, Subhathal, K. Thamarai Kannan, Natarajan, K. Swaminathan, K. Karuppuswamy and all other important witnesses.

8. The charges were established. The petitioner was held guilty of the charges and served with notice on the proposed punishment. He was also afforded with sufficient opportunity for the Second Show Cause and for personal hearing. Taking into account the entire fact involved in the case of established charges, the Disciplinary Authority served order dtd. 21.02.2016 on the petitioner for dismissal from service.

9. In view of the arguments advanced by the Authorized Representative and the Representing Counsel for the Respondent, the relevant documents, the exhibits are taken into consideration. At the outset it would not be out of place to mention that the petitioner during his examination before this Tribunal as WW1 never raises any dispute with regard to the charges established against him. He deposes regarding his age and family. He is aged about 62 years, having a family consisting of his Wife and two Children. He is not gainfully employed anywhere after his dismissal nor any has any source of income from any quarter. He admits to have received the terminal benefit from the Respondent but it being a meager amount is not sufficient to meet his bare needs. The Authorized Representative while advances argument on behalf of the petitioner also did not dispute the charges established against the petitioner but tries his best to draw the sympathy of the Tribunal for modification of the quantum of punishment from dismissal to compulsory retirement, so as to enable the petitioner to get all financial entitlements including the pension benefits.

10. But in the peculiar circumstance when the petitioner himself admitted to have misappropriated the alleged amount as per the charge. Not only that in some occasions the petitioner is found to have deliberately made fraudulent payment in favour of one of his co-staff, KK Shanmugham who dare to forge the signatures of the customers/borrowers (who also faced the enquiry and dismissed from service). It is felt the prayer of the petitioner and the submission of the Authorized Representative on his behalf deserves no sympathetic consideration. It further reveals that the petitioner and KK Shanmugham in connivance with each other dare to misappropriate the hard earned money of the customers/borrowers. The established charges of the petitioner certainly is an act of gross misconduct which is unbecoming on the part of a Public Servant. The charges established against him are grave in nature. The contentions of the Respondent's Counsel has got sufficient force to take into account.

11. Besides the Respondent's Bank undoubtedly is a nationalized bank of high repute. The general public repose confidence on such Bank as from the core of their heart they do feel that all monetary transactions are done in such Bank with high security. Their money and valuables are deposited and kept under safe custody of the Bank. Further the general public also prefer to borrow loan from such Nationalized Bank other than any Private Financial Institutions. Under different schemes when loans are sanctioned in favour of such borrowers they used to repay the loan instalments in

stipulated period of time to avail further loan facilities as bonafide customers, but it is a matter of concern that the instalments/any payment when are made by the customers, such Dealing Assistants as petitioner without remitting the same to the respective accounts of the customers/borrowers dare to misappropriate for the obvious purpose. The employees of different cadre who are directly or indirectly connected to such transactions and daily affairs of the Bank are under moral obligation to discharge their respective duties diligently with high degree of carefulness to maintain the dignity and reputation of the Bank. But unfortunately when such employees who are holding the responsible posts are playing fraud on Bank by committing financial irregularities and misappropriating the customer's money etc. certainly do not deserve any leniency as much as when the charges are established. As such, in view of the discussion held in preceding paragraphs, the materials borne out from the evidence on record it is held that the quantum of punishment imposed by the Disciplinary Authority sounds reasoned thus held justified and warrants no interference. The issues (i) & (ii) are answered.

**Issue No. (iii)**

12. The petitioner since already disbursed with terminal benefits is not entitled to any further relief as sought for. Hence the Award.

The reference is accordingly answered.

Hence the Award is passed against the petitioner.

DIPTI MOHAPATRA, Presiding Officer

**INDEX OF DOCUMENTS MARKED ON EITHER SIDE**

**Witnesses Examined :**

For the 1 <sup>st</sup> Party/Petitioner	:	WW1, Sh.V.R. Chockalingam
For the 2 <sup>nd</sup> Party/Respondent	:	MW1 Mr. Joseph Nidhiry

**Documents Marked:**

**On the petitioners side**

Ex.No.	Date	Description
Ext.W1	02.06.2014	Charge Sheet issued by ZO/Coimbatore
Ext.W2	19.08.2014) 02.09.2014)	Proceedings of the enquiry
Ext.W3	20.09.2014	Presenting Officer's brief
Ext.W4	04.10.2014	Defence Summing up
Ext.W5	03.11.2014	Enquiry Officer's findings
Ext.W6	30.11.2014	Employee's comments on Enquiry Officer's findings
Ext.W7	30.12.2014	Second Show Cause Notice
Ext.W8	09.02.2015	Speaking orders of the Disciplinary Authority
Ext.W9	20.03.2015	Appeal to the Appellate Authority
Ext.W10	31.12.2015	Order by the Appellate Authority
Ext.W11	21.02.2016	Petition under Sec. 2(A) of ID Act
Ext.W12	04.07.2016	Counter reply by the management
Ext.W13	21.07.2016	Rejoinder to the Counter.

**On the Respondent side**

Ex.No.	Date	Description
Ex.M1	10.05.2014	Charge Memo issued to the petitioner by the Respondent and Suspension order
Ex.M2	31.08.2016	Conciliation Failure Report
Ex.M3	09.05.2014	Interrogation Report Conducted by M/s. H. Subramanian and Vasudevan with

		Ms. M. Latha on 09.05.2014
Ex.M4	09.05.2014	Branch Manager, Kattampatty Branch Mrs. Anne Margaret Regina's Report dated 09.05.2014
Ex.M5	19.03.2014	Teller Register / Payment Cash Report run dated 10.03.2014
Ex.M6	09.05.2014	Statement of Account for the LOD A/C. 6187257347 from 27.12.2013 to 09.05.2014
Ex.M7	19.03.2014	Cash Challan dated 19.03.2014 for LOD A/C. 6187257347for Rs. 70,000/- with back portion
Ex.M8	27.12.2013	LOD Card for the A/C. 6187257347
Ex.M9	24.07.2013	Copy of RIP Receipt No.533372 in the name of Mrs. M.Latha
Ex.M10	27.12.2013	LOD Application of Mrs. Latha
Ex.M11	09.05.2014	Confession Statement by Mr. VR.Chockalingam recorded by Mr. R.Vasudevan, Vigilance Officer Mr. H.Subramaniam, Senior Manager, HRM, Zonal Officer, Coimbatore
Ex.M12	09.05.2014	Interrogation Report of Mr. K.K.Shanmugham on 09.05.2014
Ex.M13	16.05.2014	Branch Manager, Kattanpatty Branch Mrs. Anne Margaret Regina's Report dated 16.05.2014
Ex.M14	17.05.2014	Interrogation Report of VR. Chockalingam, dated 17.05.2014 recorded by Mr. H. Subramniam, SM, HRM, Zo, Coimbatore
Ex.M15	17.05.2014	Interrogation Report of K.K.Shanmugham, dated 17.05.2014 recorded by Mr.H.Subramniam, SM, HRM, ZO, Coimbatore
Ex.M16	19.05.2014	Representation received from Mr.K.Krishnasamy dated 19.05.2014
Ex.M17	17.05.2014	Representation dated 17.05.2014 of Mrs. M. Subbathal along with counter foil
Ex.M18	17.05.2014	Representation date 17.05.2014 received from Mr. K. Thamaraikkannan
Ex.M19	17.05.2014	Representation date 17.05.2014 received from Mr.N.Rathinam
Ex.M20	19.05.2014	Representation date 17.05.2014 received from Mrs. N. Deivathal
Ex.M21	17.05.2014	Representation date 17.05.2014 received from Mr.R.Natarajan
Ex.M22	24.05.2014	Representation date 17.05.2014 received from Mr.K. Saminathan
Ex.M23	24.05.2014	Branch Manager, Kattampatty Branch Mrs. Anne Margaret Regina's report
Ex.M24	26.05.2014	Mr.Shivakumar, SM,ZO, Coimbatore report
Ex.M25	.05.2014	Representation received from

		Mr.A.Karrupusamy with pay slip copy
Ex.M26	09.08.2014	Branch Manager, Kattampatty Branch Mrs.Anne Margaret Regina's report
Ex.M27	19.06.2014	Branch Manager, Kattampatty Branch Mrs.Anne Margaret Regina's report
Ex.M28	11.07.2014	Branch Manager, Kattampatty Branch Mrs.Anne Margaret Regina's report
Ex.M29	06.06.2014	Investigation report dated 06.06.2014 by Mr. R. Vasudevan, Vigilance Officer
Ex.M30	30.07.2014	Statement of Jewel Loan in A/C. 6127800670 of Mr. K. Krishnasamy
Ex.M31	30.08.2014	Statement of LOD A/C. 6193262429 of Mr.R. Natarajan
Ex.M32	30.08.2014	Statement of LOD A/C. 6015294536 of Mrs. Deivathal
Ex.M33	30.08.2014	Statement of LOD A/C. 6194636959 of Mrs. M. Subbathal
Ex.M34	30.08.2014	Statement of Jewel Loan Account Mr.K. Thamaraikannan
Ex.M35	30.08.2014	Statement of Jewel Loan Account Mr. N. Rathinam
Ex.M36	30.08.2014	Statement of SB Account of Mr.K.Saminathan
Ex.M37	30.08.2014	Statement of SB Account of Mr.A.Karuppusamy
Ex.M38	30.08.2014	Statement of SB Account of Mrs. C. Sundarammal
Ex.M39	30.08.2014	Statement of SB Account of Mr.R.Pappathi
Ex.M40	30.10.2013	Cashier Scroll dated 30.10.2013
Ex.M41	26.11.2013	Cashier Scroll dated 26.11.2013
Ex.M42	17.12.2013	Cashier Scroll dated 17.12.2013
Ex.M43	30.12.2013	Cashier Scroll dated 30.12.2013
Ex.M44	12.02.2014	Cashier Scroll dated 12.02.2014
Ex.M45	27.02.2014	Cashier Scroll dated 27.02.2014
Ex.M46	07.03.2014	Cashier Scroll dated 07.03.2014
Ex.M47	22.03.2014	Cashier Scroll dated 22.03.2014
Ex.M48	24.03.2014	Cashier Scroll dated 24.03.2014
Ex.M49	09.04.2014	Cashier Scroll dated 09.04.2014
Ex.M50	21.04.2014	Cashier Scroll dated 21.04.2014
Ex.M51	30.04.2014	Cashier Scroll dated 30.04.2014
Ex.M52	05.05.2014	Cashier Scroll dated 05.05.2014
Ex.M53	08.05.2014	Cashier Scroll dated 08.05.2014
Ex.M54	20.05.2014	Cashier Scroll dated 20.05.2014



Ex.M55	15.07.2015	Reg. Proof of Gratuity paid attached Rs.2,43,000/-
Ex.M56	Nil	Statement of A/C.reg. proof of payment of Gratuity Rs.2,43,000/-
Ex.M57	26.05.2014	Letter from Respondent to Inspector of Police, Negamam lodging complaint against the petitioner (V.R. Chockalingam and K.K.Shanmugham for action
Ex.M58	05.09.2014	Charge Sheet issued to the petitioner by the Respondent
Ex.M59	12.04.2017	Statement of Pension Calculation
Ex.M60	05.08.2017	Statement from the Respondent Corporate Office

नई दिल्ली, 30 दिसम्बर, 2019

**का.आ. 2243.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 51/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.12.2019 को प्राप्त हुआ था।

[सं. एल-12012/25/2017-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 30th December, 2019

**S.O. 2243.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank, and their workmen, received by the Central Government on 30.12.2019

[No. L-12012/25/2017-IR(B-II)]

SEEMA BANSAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

**Present :** DIPTI MOHAPATRA, LL.M., PRESIDING OFFICER

**I.D. No. 51/2017**  
**19.12,2019**

Sri G. Sivaraman  
No. 5 K.G. Nagar, 1<sup>st</sup> Main Road  
Ambigapuram  
Thiruninravur  
Chennai-602024

: 1<sup>st</sup> Party/Petitioner

**AND**

The Zonal Manager  
Indian Bank  
Zonal Office  
510/511, Gandhi Road  
Kanchipuram-631501

: 2<sup>nd</sup> Party/Management

#### **Appearance:**

For the 1<sup>st</sup> Party/Petitioner

: Sri J. Thomas Jayaprabhakaran

For the 2<sup>nd</sup> Party/Management

: M/s T.S. Gopalan & Co., Advocates

### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/25/2017-IR (B.II) dtd. 17.05.2017 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

*“Whether the action of the management of Indian Bank, Zonal Office in awarding the punishment of “Compulsory Retirement” to Sri G. Sivaraman, Clerk/Shroff from the services is justified? If not, to what relief is the workman entitled to”.*

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered in ID No. 51/2017 and notices were issued to both the parties for their appearance.

3. The First Party Petitioner’s case in a nutshell is that he entered into service of the Respondent as a Sub-Staff in the year 1994 at Tiruninravur, got promoted to the Clerical Cadre in the year 2002 and transferred to Melalathur Branch. He was transferred and posted as Loan Clerk at Poondi Branch in the month of February 2008. He rendered his services in continuation to a substantial period. To his utter surprise he was issued with a Charge Sheet on dated 05.02.2013 on allegation of demanding and receiving illegal gratification and manipulation of documents by the AGM/Disciplinary Authority, Zonal Office, Kanchipuram. The enquiry was concluded following a major punishment imposed upon him with Compulsory Retirement vide order dtd. 29.01.2014 which occasioned the petitioner to move the concerned Appellate Authority on 20.02.2014. The Appellate Authority vide its order dtd. 04.08.2014 dismissed the Appeal and confirmed the punishment imposed on the petitioner. Finding no other way out, the petitioner approached the Labour Machinery raising the dispute. Hence the reference. The enquiry proceeding of the Second Party Respondent and the punishment imposed on his are challenged as not fair, proper and against the principles of natural justice. The petitioner prays for reinstatement and consequential benefits.

4. The Respondent entered appearance filing its Counter Statement traversing almost all the averments on the ground that the domestic enquiry was fair and proper looking into the gravity of the charges established against the petitioner. It is contended that on the basis of several complaints received from the customers and loan borrowers regarding serious allegations against the Bank employees of Poondi Branch, due investigation was conducted. It is alleged the petitioner while working as Loan Clerk in connivance with the Branch Manager, P. Mohan and the then Cashier, Siddiraju, committed serious offences, demanding illegal gratification from the Borrowers on several pretext prior to the disbursement of sanctioned loans. Only on receipt of such illegal gratification such cheque/demand drafts towards the sanctioned loans are disbursed to the respective loan borrowers. The petitioner also in connivance with the above named Branch Manager and Cashier misappropriated and also facilitated for such misappropriation by the Branch Manager. The petitioner for the obvious purpose obtained signatures on the loan documents and blank withdrawal slips utilized the same without the knowledge of the customers and borrowers. Since the charges established against the petitioner was grave and serious in nature, the quantum of punishment was justified and appropriate, hence the petitioner is not entitled to any relief as sought for.

5. The following issues emerge basing on the pleadings of the parties:

- (i) If the charges are established against the petitioner?
- (ii) If the charges are established, and the established charges leads to quantum of punishment imposing Compulsory Retirement of the petitioner is justified?
- (iii) To what relief?

6. In order to substantiate the case the petitioner himself adduced evidence as WW1 in support of his Claim Statement and relies on a number of documents marked as Ext.W1 to Ext.W22. Further during the course of hearing the petitioner submitted the English translation of Ext.W5 to Ext.W9. The Second Party Respondent chose not to adduce any oral or documentary evidence. The Representing Counsel for the Respondent and the Authorized Representative of the petitioner advanced their arguments in support of their respective cases.

#### **Issue (i) & (ii)**

7. Since both the issues are interlinked inter-alia so far as the fact and law are concerned, taken up together for a common convenient discussion. The undisputed admitted fact of both parties remain that the petitioner was working as a Loan Clerk in the year 2008 at Poondi Branch. In the year 2011, on receipt of the complaints from various customers regarding non-disbursement, non-remittance, fraudulent withdrawal of cash of the respective borrowers and customers, necessary direction was imparted to Sri Nala Neela Jeevahan, Senior Manager, Central Office, Vigilance Department Corporate Office, Chennai for an investigation into the matter. Accordingly, basing on the Investigation Report, a Memo for three specific charges was served on the petitioner by the Respondent. The petitioner was afforded with necessary

opportunity to reply the alleged charges and for participation in the Enquiry. The charges were established. The petitioner was held guilty of the charges and served with notice on the proposed punishment. He was also afforded with sufficient opportunity for the Second Show Cause and for personal hearing. The Disciplinary Authority served order dtd. 29.01.2014 on the petitioner for compulsory retirement from service. The petitioner approached the Appellate Authority but did not win the case. The Appellate Authority confirmed the order dtd 29.01.2014 of the Disciplinary Authority.

8. The Authorized Representative of the petitioner pressed his argument challenging the fairness of the enquiry on the ground of the abnormal delay of 13 months of the complaint made by J. Prakasam (Ext.W5) as an afterthought manufactured document for the purpose of the case. The non-examination of the complainant-customers also challenged by the Authorized Representative. The further limb of his argument is that in absence of direct evidence the charges cannot said to have been proved against the petitioner as claimed by the Respondent. It is further pleaded that non-production of the Mr. Mohan, the then Branch Manager is prejudicial to the petitioner, as he is the person to whom the complaint is addressed (attention drawn on the Page 33 of the petitioner's WEX-5). It is contended that the Enquiry Officer has arrived on an illogical conclusion bearing discrepancies. It is highlighted also that so far Charge No. 2 is concerned since no complaint was made by the borrower, Mr. B. Ekambaram, the findings of the Investigating Officer in this regard cannot said to be fair. He focuses at Page-14 and Page-92 respectively. The Charge No. 3 is also accordingly challenged. He highlights the facts mentioned at Page-12 WEX stating that the signature of the customer in blank documents including the withdrawals slips obtained from Samundeswari as per the instruction of the Branch Manager. He justifies such obtaining of signature on the ground that as a Loan Clerk it is the duty of the petitioner to obtain signatures of the Borrowers in necessary documents. The Authorized Representative on behalf of the petitioner accordingly submits that the investigation, the enquiry and the imposition of punishment following enquiry, are not proper, justified as defeats the principles of natural justice.

9. The Learned Counsel for the Respondent highlighting the facts averred in Para-2 & 3 of Counter Statement advances his submission. During the relevant period Sri P. Mohan was the Branch Manager and one Siddiraju was the Clerk-cum-Shroff. In view of the direction of the Central Office, Vigilance Department an investigation was initiated by the Senior Manager, Nala Neela Jeevahan of Corporate Office, Chennai. During the course of investigation it revealed the Applications in respect of five customers / borrowers were sanctioned without their knowledge and the loan amount was misappropriated. The petitioner, G. Sivaraman has played the role for such misappropriation as against the applications of the Loan Applicant viz. one R. Samundeswari, J. Prakasam and Ekambaram. So far the allegation regarding fraud played in the case of Samundeswari is concerned it reveals from the investigation that the signature of Samundeswari was obtained on loan document and on a blank withdrawal slip by the petitioner without informing her the very purpose of it. Even if Samundeswari holds no land of her own nor intend to incur any loan on crop, without her knowledge, the Crop Loan of Rs. 1,40,000/- was sanctioned in her favour vide order dtd. 29.06.2011. The loan amount was shown as withdrawn but not disbursed to her. Despite repeated visits by Samundeswari and her Husband, the petitioner did not supply any information regarding the withdrawal of the cash, nor he returned the Pass Book. The statement of Samundeswari at Page 56 of the petitioner's typeset of exhibits in Ext.W9 (Tamil) is focused on the English Translation furnished by the petitioner. It reveals one Arun Kumar lately paid Rs. 1,00,000/- to Samundeswari. On being asked regarding the balance amount he told that the balance amount was with the Branch Manager and he will collect it from him. Some days after another Rs. 10,000/- was paid by Sri Arun Kumar to her with the same assurance that he would collect the balance from the Branch Manager. As such, it was held that the petitioner being fully aware of the fact participated in the fraud by obtaining the signatures on the loan documents and the blank withdrawal slip.

Further it appears from the relevant documents on record that one J. Prakasam applied for THDCO loan of Rs. 3.12 lakhs from the Respondent's Bank to purchase a mini-truck. The Application was duly processed and the then Branch Manager, Sri P. Mohan sanctioned the loan. But without disbursing the loan amount the Branch Manager himself while demanded illegal gratification of Rs. 15,000/- the petitioner demanded and received Rs. 5,000/- from the Loan Applicant on the pretext to be paid to BDO. The fact is admitted by him that he on the behest of the Branch Manager demanded the same from J. Prakasam.

While the Respondent further focuses on the facts which reveals from the investigation that without any pre-sanction appraisal and having several irregularities a loan sanctioned on Overdraft of Rs. 9.50 lakhs in favour of one B. Ekambaram on dated 13.07.2010 who has requested for only for Rs. 2,50,000/- to spend on his Company. He made a request for further additional loan of Rs. 50,000/- i.e. in toto Rs. 3.00 lakhs. The Branch Manager suo-moto expressed

his desire to sanction overdraft of Rs. 9.50 lakhs and therefore he himself filled-up the application for Rs. 10.00 lakhs and obtained his signature. For the above purpose while the Branch Manager illegally received the gratification of Rs. 40,000/- in toto, the petitioner received Rs. 5,000/-. Such fact was admitted by the petitioner during the investigation who further stated that the Branch Manager handed over a cheque to the petitioner to fill up figure therein for Rs. 2,50,000/- and to debit the same from his Loan Account. The amount was debited accordingly and a cheque of Rs. 2,50,000/- was handed over to the Branch Manager as per his request at his residence at Pattabiram who assures to repay the same in due course of time. This borrower has stated it before the Investigating Officer that the Branch Manager requested him to pay the same as he was badly in need of some money for construction of his house. Referred to the statement dtd 01.02.2012 of the customer recorded during investigation at Poondi Branch vide Ext.W8 (Tamil) attention drawn on English Translation.

10. The Learned Counsel further submits that in view of the outcome of the investigation and since there was sufficient substance to frame charge, the Charge Memo dtd. 05.02.2013 specifying three separate charges in detail for the aforesaid facts was prepared and issued to the petitioner. The petitioner replied to the Charge Memo to the specific charges. The charge relating to the case of J. Prakasam, the petitioner took the plea that in absence of the Branch Manager, he received an envelope from J. Prakasam as per the instruction of the Branch Manager. It is also pleaded by him that in view of the instruction he handed over the envelope to the Branch Manager no sooner he returned to the Branch. As regard to the charge relating to B. Ekambaram, the petitioner had taken a denial plea. So far the charge relating to R. Samundeswari, the reply of the petitioner was that as per the instruction of the Branch Manager, P. Mohan he obtained the signatures on the loan documents and also in the withdrawal slip. He was told by the Branch Manager that the documents will be filled-up by him on his arrival.

12. In view of the arguments advanced by the Authorized Representative and the Representing Counsel for the Respondent, the relevant documents, the exhibits are taken into consideration. At the outset it would not be out of place to mention that the petitioner himself while was examined as WW1, the Respondent declines to adduce any oral evidence. WW1 adduces his Examination-in-Chief by way of Affidavit. Though his Affidavit-Evidence discloses that he had not receive any terminal benefits he himself contradicted his such evidence during the cross-examination. He has admitted to have been receiving pension of Rs. 11,000/- per month while the amount towards his Gratuity and PF were adjusted against his loan. He simply narrates his family position in Para-3, and regarding completion of his Graduation in between. He states to have rendered unblemished services of 20 years under the Respondent. Now he is aged 43 years without any gainful employment. With much difficulties, he is maintaining a five member family consisting of his Mother, Wife and two teenaged children, but he raises no dispute with regard to the charges established against him.

It further reveals that all the important witnesses were interrogated during the course of investigation which led to frame the charge. The Branch Manager, Ms. R. Shanthi, Poondi Branch was examined by the Investigating Officer, Sh. Nala Neela Jeevahan. The statement recorded during the interrogation find place at Page-67 (Ext.W10) of the typeset of the documents of the petitioner. She states that she got promoted to Scale-II in September 2010 and joined in Poondi Branch as Branch Manager on 28.08.2001. On being interrogated she has stated that she took complete charge of the Branch and reported the irregularities observed by her vide her letter dated 11.11.2011 to the Zonal Office. She briefed the major irregularities which includes loan sanction to persons in benami-names, OD sanction without any securities and purpose, agricultural lands taken as securities for SOD for non-agricultural purpose without the permission of the Zonal Office, Crop Loan sanction without maintaining the formalities and loan sanctioned to persons at far off places. etc. Admittedly basing on the letter of the Branch Manager, Smt. R. Shanthi, the investigation was initiated. At the cost of repetition it is to say that no irregularities or infirmities are noticed in the Memo of Charge served on the petitioner as each of the charge are specified to its allegations. The petitioner was afforded with fair chance to reply individual charges. The Enquiry was accordingly proceeded with. One S.S. Subramaniam was appointed as Enquiry Officer where N. Vijayan was the Presenting Officer. The Enquiry Officer adopted all procedures for a fair enquiry enabling the petitioner to represent his case through the Authorized Representative or any Counsel or anyone of his choice. The petitioner, chose to defend his case through his Authorized Representative, one Thomas Jayaprabhakaran. The necessary documents, list of witnesses were handed over to the Authorized Representative, enabling him to contest the case. The enquiry was held in presence of the petitioner and his Authorized Representative. After a prolonged elaborate enquiry, the Enquiry Officer furnished the report establishing the individual charges against the petitioner. It also reveals from the record that the Disciplinary Authority afforded fair opportunity to the petitioner to show cause and for personal

hearing of the petitioner before imposing the punishment. At the outset, the argument advanced by the Learned Counsel for the Respondent in support of the averments averred in the Counter Statement throws much insight so far the charge established against the petitioner. It is worthwhile to mention that it reveals from the documents on record that the petitioner himself admitted to have received cash from the Borrower and obtained signature on the documents as well as on the Bank Withdrawal Slips which denotes the obvious purpose to withdraw cash from the account of the customer/borrower from the Bank. The very attitude of the petitioner, none else than a Loan Clerk holding a responsible post when obtains signature on documents and blank withdrawal slips and withdraws the cash from the account of the customer without his knowledge certainly leads to gross misconduct which is unbecoming of a Public Servant. The petitioner is found to have been in active participation in the commission of the fraud in association with other staff and the Branch Manager, P. Mohan. The charges established against him are grave in nature.

13. The contentions of the Respondent's Counsel has got sufficient force to take into account that the Respondent's Bank undoubtedly a nationalized bank of high repute. The general public repose confidence on such Bank as from the core of their heart they do feel that all monetary transactions are done in such Bank with high security. Their money and valuables are deposited and kept under safe custody of the Bank. Therefore, the Officers and Subordinate Staffs who are directly or indirectly connected to such transactions and daily affairs of the Bank are under moral obligation to discharge their respective duties with high degree of carefulness to maintain the dignity and reputation of the Bank. But unfortunately when such Officers and Staffs who are holding the responsible posts are playing fraud on Bank by committing financial irregularities and misappropriating the customer's money etc. certainly do not deserve any leniency as much as when the charges are established.

But the Disciplinary Authority in the instant case could not be so harsh in imposing the punishment of dismissal but found to have sympathetically considered the age, financial burden, family status of the petitioner and served the order on the petitioner for **Compulsory Retirement with all superannuation benefits**. As such, the quantum of punishment imposed by the Disciplinary Authority sounds reasoned and justified.

**Point No. (iii)**

The Respondent disbursed all the superannuation benefits such as Gratuity and PF which is adjusted towards the loan availed by the petitioner. The petitioner is also enjoying the pensioner benefits is not entitled to get any further relief as sought for. The point is answered accordingly.

In the result the order dated 29.01.2014 warrants no interference. The reference is accordingly answered.

Hence the Award is against the petitioner.

DIPTI MOHAPATRA, Presiding Officer

**INDEX OF DOCUMENTS MARKED ON EITHER SIDE**

**Witnesses Examined :**

For the 1 <sup>st</sup> Party/Petitioner	:	WW1, Sh.G. Sivaraman
For the 2 <sup>nd</sup> Party/Respondent	:	None

**Documents Marked:**

**On the petitioners side**

Ex.No.	Date	Description
Ex.W1	05.02.2013	Charge Sheet issued to the Employee
Ex.W2	21.02.2013	Reply in defence
Ex.W3	04.05.2013 } 13.08.2013 }	Proceedings of the enquiry
Ex.W4	19.03.2012	Investigation Report
Ex.W5	03.02.2011	Complaint by J.Prakasam to the Branch Manager

Ex.W6	01.02.2012	Interrogation Statement obtained from Sh.G. Sivaraman
Ex.W7	22.02.2012	Interrogation Statement obtained from Sh.J.Prakash
Ex.W8	01.02.2012	Interrogation Statement obtained from Customer Sh.Ekambaram
Ex.W9	30.01.2012	Interrogation Statement obtained from Smt. Samundeerwari
Ex.W10	23.02.2012	Interrogation Statement obtained from Smt.R. Shalini, Branch Manager
Ex.W11	02.09.2013	Presenting Officer brief
Ex.W12	Nil	Defence Summing Up
Ex.W13	22.10.2013	Finding of the Enquiry Officer
Ex.W14	07.11.2013	Comments by the Charge Sheeted Employee
Ex.W15	17.01.2014	Second Show Cause by the Disciplinary Authority
Ex.W16	27.01.2014	Reply by the Charge Sheeted Employee
Ex.W17	29.01.2014	Punishment Order
Ex.W18	20.02.2014	Appeal submitted to the Appellate Authority
Ex.W19	04.08.2014	Orders of the Appellate Authority
Ex.W20	22.08.2014	Industrial Dispute under Section 2A of ID Act by Charge Sheeted Employee
Ex.W21	29.07.2016	Reply by the Management to ALC
Ex.W22	16.08.2016	Rejoinder submitted by the Charge Sheeted Employee

**On the Respondent side**

Ext. No.	Date	Description
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